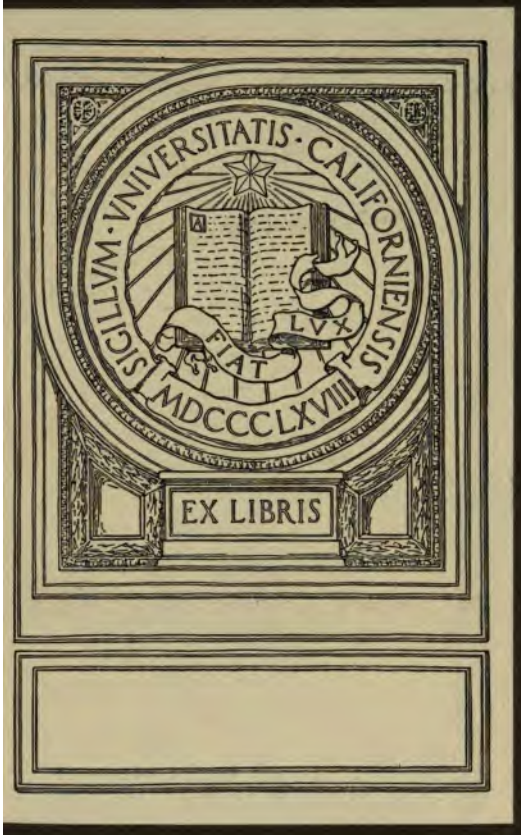
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BULLETIN

OF THE

Illinois State Historical Library

Vol. 1. SEPTEMBER 1, 1905. No. 1.

ILLINOIS IN THE

Eighteenth Century

A Report on the Documents in the St. Clair County Court House,

BELLEVILLE, ILLINOIS

Illustrating the Early History of the State.

BY

CLARENCE WALWORTH ALVORD,

University of Illinois.

SPRINGFIELD:
THE ILLINOIS STATE JOURNAL CO., STATE PRINTERS,
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ILLINOIS IN THE EIGHTEENTH CENTURY: A REPORT ON THE DOCUMENTS IN BELLEVILLE ILLUSTRATING THE EARLY HISTORY OF THE STATE.

When the county of Randolph was separated from that of St. Clair in 1795, the records of the former governments passed into the care of different jurisdictions and have suffered diverse fates. Those of legal interest to the new southern county, constituting the largest part of the official papers of the eighteenth century, remained for a time at Kaskaskia; and then were removed to Chester, where they were neglected by the county officials and many thoughtlessly destroyed, so that few documents of this period have reached a more historically interested generation.[1] Other records were left in the court house at Cahokia, where they remained until the year 1814, when they were deposited in the court house at the new county seat, Belleville.[2] The fate of the Cahokia documents has been more fortunate than that which befell the more important records at Kaskaskia; for probably the majority of the papers have been preserved, as there are in existence records dating from every period of the history of Illinois during the eighteenth century, with the exception of that of the English occupation, 1765 to 1778. At the end of this report will be found a catalog of these early documents in the various offices of the court house at Belleville.

It seems best to preface this catalog with a brief history of the institutions and the laws under which these documents originated, and also to give some account of the men who have written them. The proposed limits of the report will not include a study of political events or an analysis of the documents themselves in order to discover their evidence on the political, legal, and social conditions of the times. For this reason the documents have been little used, except in two cases. Such a study must be made, but it will be several months before it can be completed, and the desirability of an early report to the trustees of the Historical Library has determined the limits of this preliminary study.

1. Mason, *Illinois in the Eighteenth Century*, 49; Perrin, "The oldest Civil Record in the West", in *Transactions* of the Ill. State Hist. Soc., 1901, p. 64.
2. *History of St. Clair County*, 183.

A Document of the French Regime.

There is only one document belonging to the French period; it is a *Record of the Registrations of Donations*, kept by two successive clerks of the court in the district of the Illinois during the years 1737 to 1769 inclusive.[1]

In 1717, the territory of the Illinois was placed under the government of the province of Louisiana and on Sept. 20, 1721, the Western Company divided the province into nine districts, one of which was that of the Illinois.[2] This extended east and west of the Mississippi between the lines of the Ohio and the Illinois rivers. The district was subordinated to the provincial government, and appeal from the decision of the local court might be made to the superior council sitting at New Orleans.[3] The civil government of the district consisted of a commandant, a *commissaire*, a judge, a principal scrivener of the marine, a king's attorney, a keeper of the royal warehouse, a sealer of weights and measures, a clerk of the court, *huissiers*, deputy clerks, and notaries. Generally several offices were combined. For instance, in this district the duties of the *commissaire*, the judge, and the scrivener were always performed by one man; as were also the duties of attorney and keeper of the warehouse; and a notary was clerk of the court.[4] All civil officers were directly responsible to the intendant.[5] The commandant, whose military duties were the more important, was under the orders of the governor. Besides these officers of the district, the commandant of each village may have had some civil duties.[6]

There is a need of a much more careful study of all the sources than has yet been made, before the rather complicated machinery of the French colonial government in the Mississippi valley can be understood. The limitations of this paper, however, require only an explanation of the duties of the clerk of the court, when he registered certain kinds of donations. To understand these it will be necessary to study the legislation of Louis XIV and his successor upon the subject, since this was the law practiced in the French settlements on the Mississippi.

Since the Middle Ages the French law has divided private legal acts into two broad classes. In the first are included all agreements, acts, and deeds, which individuals make voluntarily, such as contracts, wills, donations, etc. These, therefore, are called acts of voluntary jurisdiction. In the second are placed all those acts which require the intervention of a court. The former class is under the jurisdiction of the notaries, whose engrossed copies have complete validity

1. *Registre des Insinuations des Donations aux Siege des Illinois*, see Catalog, No. 1; Perrin, "Oldest Civil Record in the West", in *Transactions* of the Ill. State Hist. Soc., 1901, p. 64 et seq.
2. French *Hist. Collections of La.*, III, 49-59, 101-104; Collet, in *Mag. of Western Hist.*, VIII, 268; Winsor, *Narrative and Critical Hist.*, V., 43.
3. Pittman, *Present State of the European Settlements*, 12; French, *Hist. Collections of La.*, III, 101-104; Winsor, *Narrative and Critical Hist.*, V., 43.
4. French, *Hist. Collections*, III, 49-59, 101-104; Pittman, *Present State of the European Settlements*, 53; *Edits, Ordonnances Royaux, etc.*, I., 581, art. 14, *Registre des Insinuations des Donations*.
5. The title of this officer varied; but generally he signed himself, King's Councillor, *Commissaire General* of the Marine, and Intendant. Gayarré *History of Louisiana*, II, appendix.
6. Breese, *Early History of Illinois*, 216.

without the need of an approval by a civil judge.[1] Provided all formalities are complied with, the notarial act is as effective as a judgment of the American court.[2] During the eighteenth century, others besides the notaries might draw up wills under certain conditions. This privilege was accorded the testator, the installed parish priest, and military officers; but whoever may have written them, all acts of this character were brought finally to the notaries, who were obliged by law to make and keep minutes of them.[3]

In order that they might exercise a needed control over the notarial acts and to prevent their loss the French kings, beginning with Francis I, (1539), promulgated laws which made compulsory the registration of certain classes of acts, among which were donations and wills.[4] Edict followed edict until the law of deeds, wills, and donations became so complex that a revision was necessary. Louis XIV. in his old age undertook the task, which was completed by his successor. During the first third of the eighteenth century these two kings issued a series of general laws, which regulated the writing, preservation, and registration of all acts drawn up by notaries.

The first of this series of ordinances was that of December, 1703, which systematized the law of registration and established a bureau for that purpose at each of the royal courts.[5] The clerk, who was charged with the duty of registration, acted as a recorder rather than as the agent of the court to which he was attached. The number of acts required to be registered was greatly increased; but it is sufficient for our purposes to note that donations and wills were still included. Several explanations of this edict followed; but the two ordinances issued in February of 1731 are of special interest, for they governed the clerk's action in keeping this record of registration in the Illinois. The first of these has not been printed; the second was a codification of the previous law of donations *inter vivos* and abrogated all former edicts, laws, and *coutumes* on the subject. Hereafter there were to be only two forms for the gratuitous disposal of property, namely, donations *inter vivos* and testaments or codicils.[6]

The donation *inter vivos*, before it became effective, must be accepted by the donee in person, or through attorney, or by notarial act. All such donations, with the single exception of those made by contract of marriage, were limited to property actually in the possession of the donor. There was another exception made for the same

1. Larousse, *Grande Dict. Universel*, art. *Notaire*.
2. Roy, *Histoire du Notariat au Canada*, I, 262; Brooke, *Treatise on the Practice of a Notary of England*, 8.
3. *Coutume de Paris*, art. 248; Isambert, etc., *Recueil general*, XXI, p. 292, arts. 25-37, pp. 386-402; *Edits, Ordonnances Royaux*, etc., II, 296 (interprets the law in the colonies), I.,372: Viollet, *Histoire du Droit, Civil Français*, 3d ed., 952-965. Great privileges were granted to soldiers engaged in war. Wills drawn up by priests in the Mississippi settlements received the visé of the commandant.
4. Larousse, *Grande Dict. Universel*, art. *Insinuation*; *La Grande Encyclopedie*, art. *Insinuation*; Viollet, *Histoire du Droit Civil Français*, 965-971.
5. Isambert, etc., *Recueil general*, XX, 438-441; *La Grande Encyclopedie*, art. *Insinuation*, As early as 1690, Louis XIV had issued a declaration on the subject of donations. Isambert, etc., *Recueil general*, XX, 113.
6. Isambert, etc., *Recueil general*, XXI, 343-354. The first ordinance regulated the method of registration, the fees of the clerk, etc., as may be learned from the Illinois register, in which reference to the law of February 17, 1731, was frequently made. The second was an ordinance concerning donations, a partial translation of which is printed in Appendix II. The present French law has made few changes, if any, in this ordinance. (Compare *Code Civil Français*, Bk., III, Tit. 2). On June 25, 1735, an ordinance concerning testaments was issued. Isambert, etc., *Recueil general*, XXI, 386-402.

contracts; donations to direct heirs contained in them needed no registration. This was also true of donations of movables, when there was actual delivery, and of small sums of money. All others must be registered on penalty of nullity at the nearest royal court, from which there was direct appeal to the king.

For this purpose there was kept at each royal court a particular register, which was numbered and paraphed on every page by the first officer of the court.[1] No vacant space between the deeds was left for fear of unauthorized interpolations. At the end of each year this register was inspected by the same officer and, if found in accordance with the law, the judge approved it, closed the register with his signature, and gave it into the keeping of the clerk. In this register there was copied the entire donation, if it were made by a separate act; or that part of any act, which contained the donation, so that reference to the notary's minute to learn the terms of the gift would not be necessary. Upon demand the clerk was obliged to give access to the book; and, if requested, to make a copy of the deed for a fixed fee.

In the register containing the registration of these donations *inter vivos*, the clerk in the district of the Illinois has also kept a record of testaments and codicils. That these must be registered has been already stated; but I have been unable to find any law permitting or ordering the registration of wills in the particular record reserved by the Ordinance of 1731 for donations *inter vivos*.[2] Since wills, however are only a particular kind of donation, it is probable that the clerk was following a universal custom.

Such was the French law regulating the registration of donations and of wills or codicils, and the clerk in the district of the Illinois observed this law with as much care as if he were attached to the court of the provost of Paris, at least during the earlier years. The leaves of the book were all numbered and paraphed by the judge of the district; the formulae of the registration were carefully observed; the deeds were written so that the pages were filled, even crowded. In one instance the clerk—it was the later one who was less careful– missed an eighth of a page and across this space he has drawn a line and written, "passed by mistake." The acts registered may be thus classified: 1. Simple acts of mutual donation of real and personal property, both present and to be acquired, made by contract of marriage, so that in case of the death of one, the survivor would have all the property possessed by both. These donations were to be null and void in case of the birth of a child. 2. Acts of donation by one party to the other in the contract of marriage. 3. Acts of donation by a third party to one or both of the contracting parties in a contract of marriage. 4. Acts of mutual donation *mortis causa*.[3] 5. Simple acts of donation by one party to another. 6. Acts of donation

1. Isambert, etc., *Recueil general*, XXI, 345-349. A paraph was a flourish of the pen under the signature, the number of the page, or words inserted on the margin. It was used to prevent falsification.

2. *Ibid.*, XX., 438-441, XXI, 401, art. 79; Larouse *Grande Dict Univ.*, art. *Enregistments La Grande Encyc.*, art., *Insinuation*,

3. These were forbidden, but may have been permitted to soldiers. Isambert, etc., *Recueil general*, XXI, 393, art., 27.

in return for which the donee promised some compensation. These were generally made by aged persons in return for the promise of support. 7. Solemn wills and testaments. 8. Codicils. 9. Formal renunciation of the "community of property" by the wife.[1] The property, which is thus disposed of, included real estate, mortgages, notes of all kinds, state bonds, money, household and personal property, and slaves.

In the largest number of cases these acts were drawn up by a notary, generally by the notary who, as clerk of the court, registered them and received three *livres* for so doing. There are, however, a number of contracts of marriage and of wills, which were written by priests, or by the military commandant of one of the settlements, or by an officer in the army, and some wills written by the testator.

Usually the party interested in the deed brought it to the bureau of the court to have it registered, in which case the following formula was used by the clerk: "Today, the seventh day of April, 1752, there has appeared at the bureau of this jurisdiction before the clerk whose signature is below, Mr. Jean Baptiste Gouier called Champagne, inhabitant of St. Philippe, dwelling in the parish of Ste. Anne, with a copy of his contract of marriage with Miss Marie Joseph Lacroix, passed before the late Mr. Jerome Rousillet, notary, on the date, February 14, 1735." Sometimes the clerk was commissioned to make the registration, in which case he wrote after dating: "We, Bertlor Barrios, clerk at the Illinois, by virtue of the commission of Francois Lacroix to register, etc." The invariable formula at the close is this: "And after having read the said contract of marriage in our bureau, we have inscribed the said donation on the Record of the Registrations of this court in accordance with the ordinance for their preservation and validation, by reason of which, etc. Done in our bureau the day and year above written." Then followed the signature of the clerk with a paraph.

The time intervening between the redaction of an act and its registration varied considerably. Generally only a few days were allowed to pass before the parties appeared in the court to fulfill the requirements of the law. As a rule the bridegroom brought the contract of marriage, but not always; and in the case of wills the executor, after the death of the testator. At times, years elapsed before this final act of registration, as in the case of a contract of marriage dated February 17, 1726, and registered August 2, 1741. In this case the donation was made before the promulgation of the Ordinance of 1731, but it will be remembered that this ordinance did not change the existing law on the registration of donations. There were cases when a doubt arose whether an act had been registered and the party interested requested the clerk to search the record and, if necessary, to fulfill the requirements of the law. Thus, on October 25, 1741, Francois Lacroix requested the clerk to look up his contract of

1. Viollet, *Histoire du Droit, Civil Français*, 3d ed., 826-848.

marriage, which had been drawn up November 8, 1739, by M. Jerome, deceased. Since it had not been registered, the clerk recorded the fact and corrected the omission.

The first entry in the book was made on January 15, 1737, by Jean Baptiste Bertlor Barrois.[1] This was not the only book under his charge; for the French law required the memoranda of all acts of the court to be carefully and systematically kept. As royal notary, he was obliged to make and preserve his minutes and copy his engrossments;[2] as clerk of the court, he had four distinct registers;[3] as clerk of the marine, he was obliged to keep records in seven registers;[4] and as clerk of registration, he must have had a book for the registration of other acts than donations. It is doubtful whether the entries in any one of them were numerous, since his registrations of donations averaged only four a year. The entries are in various handwritings, so that probably he had the assistance of several deputy clerks in the bureau.

Barrois lived at Kaskaskia until December of 1754. He called himself clerk of the court and named this register the *Record of the Registrations of Donations at the Court of the Illinois*. Yet writers on Illinois history have generally regarded Fort Chartres as the seat of both civil and military government and, by inference, the place where the court of justice always held its sessions.[5] In favor of this view is Pittman's statement that the fort was the seat of government and that the commissaire's house was situated there;[6] the burial of the judge, Delaloire Flancour, in 1746 at the same place: the statement of Barrois that on October 25. 1741, he was requested to search the register of the late M. Jerome of Fort Chartres, whom he called both notary and clerk, for a donation in a contract of marriage, which Jerome had been expected to register.[7] Since this contract of marriage was drawn up by Jerome on November 8, 1739, he must have been acting as notary and clerk of the court at Fort Chartres two years after Barrois had begun his register of donations in Kaskaskia. From these facts it may be inferred that between January 15, 1737 and November 9, 1739, the judge held sessions of the court at both places, unless Barrois was acting as deputy of Jerome at Kaskaskia. It is not probable, however, that Barrois was deputy clerk of registrations, since there was no provision for such an officer in the ordinances.

But was the court at Fort Chartres continued after 1739? Pittman's testimony is only of value for the later period of the French occupation, and it is certain that the judge sat at Fort Chartres after December, 1754; for during that month Barrois left Kaskaskia, where he had continued to register acts of donation, to take up his residence at

1. The names Jean Baptiste were obtained from a contract of marriage, drawn up by Barrois in 1757, in which he appeared for the bride, his daughter Celeste. *Manuscript* in the Missouri Hist. Society's collection. In the register he called himself Bertlor Barrois. See also *American State Papers, Public Lands*, II, 217.
2. *Edits, Ordonnances Royaux*, etc., I, 217.
3. At least such was the case in Montreal. *Ibid.*, II, 386.
4. Isambert, etc., *Recueil general*, XIX., 289.
5. Mason, *Illinois in the Eighteenth Century*, (Old Fort Chartres), 23 et seq.; Moses, *Illinois Historical and Statistical*, I, 98.
6. Pittman, *The Present State of the European Settlements*. 45.
7. *De faire recherche dans les registres de feu M. Jerome vivant Greffier aux dites Illinois resident au fort de Chartres.* From the *Registre des Insinuations des Donations*, Oct. 25, 1741; see also the Appendix III, Jerome Rousillet; Mason, *Illinois in the Eighteenth Century*, 32.

Fort Chartres, as is proved by the record. Also from the few quotations from the sessions of the court made by Judge Breese we know the court was in session in 1756 at the same place.[1] Therefore the question concerns only the years 1739 to 1754. During this period the fort was badly in need of repair and permanent abandonment of it was contemplated.[2] So dangerous did the situation become in 1748 that the commandant temporarily withdrew his troops from it and concentrated his forces at Kaskaskia.[3] The quotations of Judge Breese from the record of the court prove it to have been in session in that settlement in 1749 and 1752.[4] Furthermore, on Oct. 25, 1741, the register of the clerk Jerome was in the hands of the clerk Barrois at Kaskaskia, which would not have been the case had a successor to Jerome been appointed at Fort Chartres.[5] The natural inference from these facts is that the civil government was moved from Fort Chartres to Kaskaskia sometime after 1739 and before Oct. 25, 1741. Still the evidence is not conclusive, for during the years 1737 to 1739 the judge probably held court at both places, and it is possible that this continued to be the case.[6]

The rebuilding of Fort Chartres was completed in the year 1754, and during December of the same year Barrois began to date his registrations at Nouvelle Chartres, which he continued to do up to the year 1757.[7] The first registry of his successor, Labuxiere, dated March 14, 1757, was an act drawn up by the notary Barrois on March 10, 1757. This is the last official act by him which is recorded in the *Registre*, so it is probable that he died between that date and March 14. If that was the case, it is strange that Labuxiere never used the phrase, the late M. Barrois; but it is possible that he was as unfamiliar with the correct phraseology as he proved himself to be with other particulars.

There is very little to be learned from the register about Bertlor Barrois, since there is no act recorded in which he was personally interested. From the contract of marriage of his daughter, Celeste Therese, in the collection of the Missouri Historical Society, we learn that he was at that time, Jan. 8, 1757, a widower, his wife's name having been Magdalen Cardinal. The church register at Kaskaskia contains the record of baptism of their son, Louis, in 1732.[8] In the year 1756, Magdalen Barrois, widow of Louis Marin, registered her contract of marriage. Possibly she was another daughter if her name is any evidence. When the United States government sent commissioners to these Mississippi settlements to examine the land titles, there were several heirs of Barrois living in the Illinois district.[9] From the same source comes information of an earlier date which

1. Breese, *Early History of Illinois*, 214-220.
2. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 32.
3. *Doc. rel. to the Col. Hist. of the State of N. Y.*, X, 143.
4. Breese, *Early History of Illinois*, 217 et seq.
5. *Registre des Insinuations des Donations*, October 25, 1741; see above.
6. The only objection is that the registers of the clerk Jerome were sent to Kaskaskia. There might have been some other reason for this than the one proposed in the text.
7. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 34; Moses, *Illinois Historical and Statistical*, I, 114.
8. "Kaskaskia Church Records," in *Transactions* of the Ill. State Hist. Soc., 1904, p. 399.
9. *American State Papers, Public Lands*, II, 138.

proves the notary to have been an owner of land. A certain man named John Rice Jones had, in 1813, a claim for land in Kaskaskia, which he had obtained from the heirs of Catherine Placé, said to be daughter of Jean Baptiste Lebert *dit* Barrois.[1] The claim appeared to the commissioners of doubtful validity, because there were evidences of forgery. Upon investigation it was found that in an old record book of land titles, made in the time of Judge Louis Auguste Delaloire Flancour, there was a claim of Jean Bte. Bertlor Barrois for thirty *toises* square at Kaskaskia, granted by M. d'Artuguiette to said Barrois March 10, 1736; also two arpents of land granted by the same commandant Feb. 10, 1736. The entry of these claims was made May 21, 1742. Neither of them was the land claimed by Jones, so the commissioners made an unfavorable report, although the belief of the inhabitants of Kaskaskia seems to have been that Bertlor Barrois actually possessed land situated near that claimed by the petitioner.

Joseph Labuxiere,[2] the successor of Barrois, continued to keep the register at Nouvelle Chartres until the end of the French Regime. He is said to have come from Canada and to have married Catherine Vifvarenne of St. Philippe.[3] Of his private life little else is known. He was not so careful in conforming to the law as his predecessor, although this may have been due to ignorance. Still a general relaxing of the stricter forms of government is to be noticed throughout the settlement, a sign of which is the cessation of the annual inspection of the register by the judge after 1757. It was the period of the Seven Years War and the officials in the Illinois must have felt themselves completely cut off from the home government, the regular communication with which had formerly held them so strictly to their duties.

Although the treaty of Paris in 1763 had ceded this territory north of the Ohio river, it was not until Oct. 10, 1765, that the English took possession of Fort Chartres.[4] Up to that time the French officials continued to govern the district. During 1763 Labuxiere registered several deeds. In the next year there was no entry made until the autumn, when the change in the destinies of the Northwest may be read in the words: "*arreste le present journal le dix 8bre 1764, Lefebvre.*"[5] Two days later, however, there was occasion to open the book again to enter the last act of donation drawn up and registered by French officials on Illinois soil.

Several years elapsed before the old register was again used. Then it was to record acts drawn up on the western bank of the Mississippi river in St. Louis. There were five entries made between September 1, 1768, and June 6, 1769, by Labuxiere in that settlement. The book was still called the *Record of the Registrations of the Donations at the Court of the Illinois.* Although this seems anomalous, it is not difficult to explain. That part of the province of Louisiana,

1. *Amer. State Papers, Public Lands*, II, 216.
2. Often spelled Labussiere, or Labusciere.
3. Billon, *Annals of St. Louis*, 27.
4. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.
5. "The present journal is stopped, October 10, 1764. Lefebvre." Lefebvre was acting judge at that time. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.

which was west of the Mississippi, was ceded to Spain November 13, 1762; but it was not until August 18, 1769, that the Spaniards took official possession of it; and not until May 20, 1770, that their representative arrived in St. Louis.[1]

Meanwhile, there was need of some form of government in St. Louis, which had been founded by Laclede in 1764, just at the time when these various changes in sovereignty over the Mississippi valley were being made. As soon as the news of the cession of the eastern Illinois to the English reached the French settlements, there was an exodus of settlers to Laclede's new village across the river, so that in a year St. Louis became a more populous settlement than Kaskaskia had ever been.[2] Relatively only a few were left on the Illinois side. The Commandant Villiers had gone to New Orleans with most of his officers and men in June, 1764, and evidently Valentine Bobe Desclauseaux, the last officially appointed judge of the district, had followed his example; at least he disappeared from these regions. To represent the French government at Fort Chartres, until the English should take possession, there remained St. Ange de Belle Rive, Commandant; Joseph Lefebvre, Attorney General, Keeper of the Royal Warehouse, and acting Judge; and Joseph Labuxiere, Clerk and Notary.[3] After the deliverance of the fort to the English, they went to St. Louis, where they continued to act in their official capacity as representatives of France. The title of their government was, "The Court of the Illinois"; for the western bank of the Mississippi had always been a part of the district. On April 3, 1767, Lefebvre died. Of the civil officials of the French government in the Illinois, there remained but one, the clerk and notary. Up to May, 1770, Labuxiere performed the duties of judge, attorney, keeper of the royal warehouse, clerk, and notary; and with St. Ange represented the French government in the conveyance of the district to the Spaniards.[4]

Under Spanish rule Labuxiere acted as notary until Dec. 23, 1780, after which date Mr. Billon found no trace of him in St. Louis. He says: "He died elsewhere, I think at new Madrid, and left three sons, Joseph, Louis, and Francois."[5] From the records of the court of Cahokia, founded under the Virginia Act of 1778, the later history of Labuxiere can be traced.[6] By June 29, 1782, he had returned to the eastern side of the Mississippi; for the County Lieutenant Richard Winston with the consent of the court of Kaskaskia appointed

1. *Amer. State Papers, Public Lands*, II., 240; King, *New Orleans*, 107, et seq.; Ogg, *The Opening of the Mississippi*, 335 et seq.
2. Billon, *Annals of St. Louis, passim.*
3. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161. Mr. Billon must be mistaken in the office held by Lefebvre. He calls him civil judge, and says that later he was appointed keeper of the royal warehouse. This is a reversal of the relative importance of the offices. Probably he was never officially appointed judge, so retained the title of the lower rank in all deeds, while performing the duties of the judicial office. This was the usual course. Billon, *Annals of St. Louis*, 30, 47.
4. *Ibid.*, 31, 47.
5. *Ibid.*, 30. There was a Joseph Labussiere in New Madrid in 1806, but he was only twenty-one years old. *Amer. State Papers, Public Lands*, II, 577.
6. Catalog, Nos. 2a, 3; Mason, *Lists of Early Illinois Citizens, Fergus Hist. Series*, No. 31, p. 68.

him attorney for the court of Cahokia. On December of the same year he was empowered to act as notary; and on June 20, 1785, he took the oath of office as clerk of the court, a position he held until the establishment of a government by the United States over this territory in 1790. He died on April 29, 1791 and left many heirs as is apparent from their claims to lands before the United States commissioners.[1] The presence of Labuxiere in Cahokia explains how the *Record of Registrations* happens to be now in Belleville. He brought it across the river with him. Since Cahokia was not a seat of government under the French regime, there never were many official records in the archives, and all the other records of Fort Chartres were removed to Kaskaskia, when the English changed the seat of government to that village in 1772.[2]

There was still another official connected with the record whose duties must be explained. According to the royal ordinance the register must be numbered, paraphed, and once every year inspected and closed by the principal officer of the court.[3] This inspection and closing of the register in the district of the Illinois was performed in January, only once later. From 1738 to January, 1746, this duty was discharged by Louis Auguste Delaloire Flancour, Esquire (later Sieur de Flancour), Principal Scrivener of the Marine, subdelegate of M. de Salmon, (or whoever was intendant), *Commissaire* and Judge of the Civil Court in the district of the Illinois.[4]

The first title is not explained in the general Ordinance of the Marine by Louis XIV. in August 1681, or in the subsequent supplements to the edict, so far as I can learn.[5] There were *ecrivains* in the marine; but they were like our pursers and served on the ship, which they could not leave until the voyage was completed.[6] This Illinois official served on land and evidently was a subordinate of the *commissaire general* of the marine at New Orleans, and therefore must have had supervision of the fishing and boating interests of the district with power to judge in the first instance all disputes arising therefrom.[7] All officers of the civil government were connected in one way or another with the marine. As subdelegate of the intendant he was chief of the departments of justice, police, and finance.[8] His duties included a general oversight of all departments of civil government; but his power was not well defined and must have brought him into frequent conflict with the major-commandant. The next titles, *commissaire* and judge, probably represented one office, namely that of judge of the civil and criminal court. The law of the French colonies was that of the provosty and viscounty of Paris or to give it the better known name, the *coutume de Paris*.[9] Capt. Pittman who visited the settlements on the Mississippi a few years after the end of

1. Missouri Reports, IV, 343; *American State Papers, Public Lands*, I. and II, index.
2. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 43.
3. Isambert, etc., *Recueil general*, XXI, 349, arts. 24 and 25.
4. *Ecrivain principal de la marine, subdelegue de M. de Salmon, commissaire et tenant le siege civil de justice aux Illinois. Registre des Insinuations des Donations.*
5. Isambert, etc., *Recueil general*, XIX, 282-366; *Edits, Ordonnances Royaux*, etc., I, 360-364, 391-394, 434-436, 532-533, 546-550.
6. Isambert, etc., *Recueil general*, XIX, 306, title, III.
7. *Ibid.*, XIX, 285; Rambaud, *Histoire de la Civilization Française* II, 244-246.
8. *Ibid.*, II, 30-34; see numerous commissions of intendants in *Edits, Ordonnances Royaux*, etc., III.
9. French, *Hist. Collections of La.*, III, 49-59, art. 15.

the French dominion has characterized this official with many offices, as, "a mere cypher rather kept for form than for real use," and his judgment has been accepted by more recent writers.[1] Remembering the part played by the intendants in the government of France and the continual quarrels of the governors and intendants in Quebec and New Orleans, one hesitates to accept this judgment of a passing English soldier as final, unless substantiated by some convincing evidence, which up to the present time has not been produced.

The judge after inspecting the register wrote in it the following formula: "Today, the 23 of January, 1731, we (*name and titles*), having found that the present register conforms to the King's declaration of February 17, 1731, and having numbered and paraphed it, do hold it closed from this day, and have left it in the possession of Bertlor Barrois, as clerk of the jurisdiction of this court, in order that he may be able to communicate its contents to all persons who shall have an interest therein. This is all done in accordance with the above mentioned declaration. At Kaskaskia, the day and year above written, I have signed."

Flancour died in 1746, and was buried at Fort Chartres.[2] In January of the next year the office of judge was vacant, and the register was inspected and closed by Joseph Buchet, who was keeper of the king's warehouse and acting as royal attorney and judge.[3] The *garde des magazins* belonged to the department of the marine; and his duty was to maintain a sufficient supply of all necessities for the equipment of the army, and for trade with, and gifts to, the Indians.[4] In 1748 Buchet was still performing the duties of all the higher offices, but in the next year he signed himself Scrivener, Subdelegate, *Commissaire*, and Judge, thus announcing to us his promotion. He held the position until January 12, 1757, at least.[5] After that date the officials evidently became more lax in discharging their duties, for the register was never again officially inspected by the judge of the court, although the names of two men are known who acted in that capacity, John Arnold Valentine Bobe Desclauseaux, who signed a deed November 11, 1763, and Joseph Lefebvre, who accompanied St. Ange to St. Louis.[6]

The Period of the Virginia Occupation.

Up to the present time, only a few local records have been known of the period of the Virginia occupation, such as Clark's narratives and letters; John Todd's Record-Book; St. Clair Papers; and the

1. Pittman, *The Present State of the European Settlements*, 45.
2. Mason, *Illinois in the Eighteenth Century*, (Old Fort Chartres), 33; *Church Records of Ste. Anne.*
3. *Nous, Joseph Buchet, Garde des magazins du Roi aux Illinois, Procureur aux lieu vacans et de la majeste au dit lieu garde la jurisdiction royal des Illinois. le siege vacans. Registere des Insinuations des Donations.* January 16, 1747.
4. Isambert, etc., *Recueil general*. XIX, 284, art. 14. See inventory of goods in the warehouse in Billon, *Annals of St. Louis*, 47.
5. In 1756, Buchet was absent and the register was inspected by Andre Chevalier, who signed himself "*Garde des Magazins*, Subtreasurer, Attorney, and acting Judge in the absence of M. Buchet."
6. Billon, *Annals of S. Louis*, 31; *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.

American State Papers.[1] Only two of these are both contemporary and local. On account of this scarcity of sources the documents of this period at Belleville are the most interesting and valuable of all those in the archives of the court house and will illuminate an obscure period of state history. Cahokia was not a centre of government under the French and accident alone accounts for the presence there of the record which has been described; but under the Virginia dominion a court and a commandant were established in the village and the numerous documents of this government were finally carried to Belleville, where they have been preserved.[2] There are a few sheets of a record in the English language of a court which sat in Cahokia between the time of Clark's conquest and the establishment of a civil government by John Todd. The remaining documents are written in French with an occasional copy of an English paper. Among them is an almost complete record of the sessions of the Virginia court at Cahokia from Nov. 26, 1779, to April 1, 1790; and the register of the clerk of the same court. Besides these there are the minutes of the sessions of the court of the "justice of the week" for July 9, 1785, to Feb. 18, 1786; and about four hundred miscellaneous papers such as petitions to the court, briefs, warrants, etc.[3]

If the documents of this period are the most valuable, the most interesting of them is the record of the court, which held sessions immediately after the conquest in the summer of 1778; because it supplements the account of the civil government given in Clark's memoirs where is found the only notice in his writings of the organization established by him in the territory. He there says: "I inquired particularly into the manner the people had been governed formerly, and much to my satisfaction, (I found) that it had been generally as severe as under the militia law. I was determined to make an advantage of it, and took every step in my power to cause the people to feel the blessings enjoyed by an American citizen which I soon discovered enabled me to support, from their own choice, almost a supreme authority over them. I caused a court of civil jurisdiction to be established at Cahokia, elected by the people. Major Bowman, to the surprise of the people, held a poll for a magistracy, and was elected and acted as judge of the court. (Manuscript here illegible.) After this similar courts were established in the towns of Kaskaskia and St. Vincent. There was an appeal to myself in certain cases and I believe that no people ever had their business done more to their satisfaction than they had through the means of these regulations for a considerable time."[4]

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1. *Clark's Sketch of his Campaign in the Illinois, Ohio Valley Hist. Series*, No. 3; *Clark's Mss.*, in the Library of the Wis. Hist. Soc.; *Clark's Memoir*, in English's *Conquest of the Northwest*, I, 457-565, and partially printed in Dillon, *Indiana*, 114-167, and *Ill. Hist. Collections*, vol. 1, *passim*; Mason, *John Todd's Record-Book, Fergus Hist. Series*, No. 33; Smith, *St. Clair Papers, Public Lands*, 2 vols.

2. See Catalog Nos. 1, 2a, 2b, 3, 4, 5a, 6, 9. For two reasons I have discussed the document of the French period at relatively greater length than these. First it was possible to say all that is essential to be said of the register at the present time. In the second place, the documents of the Virginia period being longer and more important require a more careful study than I have been able to give them up to the present. I have therefore limited myself to using only the most apparent information contained in them.

3. *Juge de semaine*.

4. English, *Conquest of the Northwest*, I., Appendix, 484.

The new source is a record of this court at Cahokia which is written on both sides of four loose sheets of paper.[1] Their mutilated condition and the fact that the pages are not consecutive are evidences that they once formed part of a book in which the complete record had been kept. It was written in English by two persons, one of whom was evidently Captain Bowman and the other, Lieutenant Perrault. There are, in all, incomplete records of nine sessions of this "Court of the Committee of Cahos." The dates are as follows: Thursday, Dec. 31, 1778; Thursday, Jan. 7, 1779; Friday, Jan. 8; date lost; date lost; Friday, April 12; date lost; Friday, April 30; Friday, May 7. From one of the other documents we learn that the court was in session as early as Nov. 2, 1778, for it issued an order for a public sale on that date.[2] The cases brought before the court were both civil and criminal. There is no evidence of a trial by jury.

At seven of the sessions there were four judges; at one, five; at one only two. In this last case the court adjourned for lack of a quorum. The president of the court up to Jan. 7, and from the second session held in April, was Captain Bowman. The absence of Bowman from Cahokia from the middle of January to the first week in April is explained by his presence on the winter expedition made by Clark against Vincennes. He had been recalled to Kaskaskia by Clark in January to help repel a threatened attack on that place by the British and did not return to Cahokia before the Vincennes expedition. From his journal we learn that he was in Kaskaskia before Jan. 27. Clark started for Vincennes, Feb. 5 and did not begin his return journey until the last of March, so that Bowman could not reach Cahokia in time for the session of the court on April 2.[3] During his absence Lieutenant Perrault was president, and the record contains an account of his taking the oath of office. The judges assisting the president were not always the same; but in all the sessions the names of seven judges besides the two presidents are given. These are, Langlois, Captain Turanjeau, Gratiot, Captain Trottier, Granot, Girardin, and Beaulieu. Evidently there was a bench of eight judges counting the president of the court. The number of judges, the number required for a quorum, and the weekly sessions remind us of the county court of Virginia upon which this court was obviously modeled.[4] Since these judges were elected by the people the first election on the soil of Illinois was not held in May, 1779, by John Todd, as has been assumed by former writers, but in the autumn of 1778 under the authority of George Rogers Clark.[5]

After the conquest of the northwest by Clark, the Assembly of Virginia passed in October, 1778, an act to establish a civil and military government in the territory which was christened the county of

1. Catalog, No. 5a.
2. Catalog, No. 2b.
3. *Clark's Sketch*, in *Ohio Valley Hist. Series*, No. 3, p. 76; *Bowman's Journal*, in same, 99; *Clark's Memoir*, in Dillon, *Indiana*, 161, also in English, *Conquest of the Northwest*, I, 520.
4. Hening, *Statutes at Large*, V., 489, art. 1.
5. Mason, *Illinois in the Eighteenth Century*, 55; Boyd, "The County of Illinois," in *Amer. Hist. Review*, IV, 4, p. 628.

Illinois.[1] In the preamble it is stated that the government was to be temporary in character since, "On account of the remoteness of the region it was difficult, if not impracticable, to govern it by the present laws of the commonwealth." The governor was empowered to appoint a county lieutenant or commander-in-chief, who was authorized to appoint and commission deputy commandants, militia officers and commissaries, who were to serve during his pleasure. The citizens of the region were to be assembled to elect such civil officers as they were accustomed to. These were to receive their commissions from the county lieutenant and to be paid for their services as had been customary. Provided other officials were needed. they were to be appointed by the county lieutenant with the advice of the council, and drafts might be made on the treasury of Virginia to the amount of five hundred pounds for their salaries. All officials, both civil and military, were to take the oath of allegiance to Virginia and the oath of office according to the form of their own religion. In criminal prosecutions, if the defendants were found guilty, the lieutenant might grant pardons, except in cases of murder and treason. In these cases he could only suspend execution until they had been reviewed by the government of Virginia.

On December 12, 1778, Patrick Henry, Governor of Virginia, commissioned John Todd as County Lieutenant of the county of Illinois. The following passages of his letter to Todd pertain to the formation of the civil government and to the powers granted it: "Altho Great reliance is placed on your prudence in managing the people you are to reside among, yet considering you as unacquainted in some Degree with their Genius, usage and maners, as well as the Geography of the Country, I recommend it to you to consult and advise with the most inteligible and upright persons who may fall in your way."

* * * * * * *

"and I know of no better Gen'l Direction to Give than this that you Consider yourself at the head of the Civill department and as Such having the Comm'd of the militia untill ordered out by the civil Authority, and to act in conjunction with them."

* * * * * * *

"You are on all Accatons to inculcate on the people the value of liberty and the Difference between the State of free Citizens of the Commonwealth and that Slavery to which Illinois was Destined. A free and equal representation may be expected by them in a little Time, together with all the improvm^{ts} in Jurisprudence and police which the Other parts of the State enjoy."

* * * * * * *

"The Ditails of your Duty in the civil Department I need not give you, its best Direction will be found in y^{r} innate love of Justice and Zeal, to be intencively usefull to your fellow-men. A general Direction to act according to the best of y^{r} Judgment in cases where these Instructions are Silent and the laws have not Otherwise Directed is

1. Hening, *Statutes at Large*, IX, 552-555; printed also in Appendix IV.

given to you from the necessity of the case, for y[r] Great Distance from Governmnt will not permit you to wait for Orders in many Cases of Great Importance."[1]

In May, 1779, Todd reached Kaskaskia. His first duty was to attend to the appointment of militia officers. In most cases he confirmed the appointments made by Clark in Cahokia; for Commandant Trottier and Captain Turanjeau of his list of officers bear the title of captain in the record of Clark's court.[2] On the other hand Perrault, who was lieutenant and justice under Clark, received no office under the new government.

The act of the Virginia assembly required the election of officers. "for the preservation of peace and the administration of justice," such as the inhabitants were accustomed to.[3] Did Todd follow his instructions in this particular? The inhabitants had experienced within recent years both French and English judicial institutions, either of which he might have followed and remained within both spirit and letter of the act. The former had consisted of one judge who tried both civil and criminal cases without the assistance of a jury. The English court had been created by a proclamation of Colonel Wilkins on November 21, 1768, which was issued in accordance with a letter of instructions from General Gage.[4] This court was composed of seven judges and was held every month at Fort Chartres. At most it had jurisdiction only over civil cases and very probably it was limited to actions for debt and the trials were held without jury.[5] What change, if any, was made in the character of the court by the "Quebec Act" of 1774, which subordinated the territory north of the Ohio river to the government of Canada, I do not know; but as the British troops were withdrawn from the Illinois in the spring of 1776, leaving a Frenchman, Rocheblave, in charge, there was practically no time to inaugurate a radical change.[6] Under Philippe de Rocheblave whatever order had been introduced into the department of justice by the English commandant disappeared. Certain English merchants complained that he acted against them in the dual capacity of attorney

1. *Cal. of Va. State Papers*, I., 312 et seq.; also in Mason, *John Todd's Record-Book Fergus Hist. Series*, No. 33, pp. 159- 64.
2. *Ibid.*, 164.
3. Hening, *Statutes at Large*, IV, 553; appendix IV.
4. I have been unable to find either proclamation or letter, nor have I seen a reference as to where they may be found. The accounts in the various histories quoted below show such a striking similarity that they must have been derived from a common source. This may of course be the original documents. Brown, *History of Illinois*, 213; Davidson and Stuvé, *A Complete History of Illinois*, 165; Moses, *Illinois Statistical and Historical*, I, 140; Dunn, *Indiana*, 78.
5. Moses, *Court of Enquiry at Fort Chartres*, 292. In this account, which differs from the generally accepted one, Moses has drawn his information from the statement in a letter of Ensign George Butricke, who was stationed at Fort Chartres at this period. Speaking of Colonel Wilkins he wrote: "He has now granted commissions of the peace to several people, both French and English; of these he has formed a court of judicature, who are allowed to determine on all causes of Debt without a Jury. How this may answer with the laws of Great Britain I will not pretend to say. He has appointed Mr. George Morgan presi . of this court which has given great offence to all the French inhabitants in the colony, he being universally hated by all those people." *Hist. Magazine*, VIII, 262-270.
6. Houston, *Constitutional Documents of Canada*, 90; Coffin, *The Province of Quebec and the Early American Revolution*, Univ. Wis. Bulletin, I., 276 et seq.; Mason, *Philippe de Rocheblave and Rocheblave Papers, Fergus Hist. Series*, No. 34, p. 237; "Clark and the Kaskaskia Campaign Documents", in *Amer. Hist. Review*, VIII, 492.

and judge; and Rocheblave explained that persons accused of crime demanded first English and then French law according as one or the other was favorable to them. From these complaints it is evident that Rocheblave was acting as sole judge in both civil and criminal cases and that the English bench of seven judges no longer existed.[1]

Although a reversion to the older French procedure had apparently taken place, still Todd might have urged the previous use of the English court as a justification for ignoring the French model; for the inherent dislike of Americans for the one-man rule would have debarred that kind of a court, even if there had been anyone in the county capable of performing the duties of judge. It is reasonable to suppose that the English residents, such as Daniel Murray and Richard Winston, must have thrown the weight of their influence against the reinstatement of the French tribunal.[2]

Todd apparently gave little attention to either of these earlier courts; for there were in existence judicial institutions with which he was familiar, even if the inhabitants had not yet become accustomed to them. These were the courts founded by Clark in the three villages. As has been said, they were modeled after the county court of Virginia; an institution which both Clark and Todd had helped to introduce into Kentucky, just previous to starting on the expedition to the Illinois.[3] The county government of Virginia consisted of the county lieutenant, the court, and the minor officials. The court, which had both civil and criminal jurisdiction, was composed of the justices of the peace, and held monthly sessions.[4] The most important differences between the institution as it was founded in Illinois and its prototype were the election of the justices by popular vote and the existence of three courts in one county. The first of these differences was established by the Virginia assembly, and the second was due to the distances between the villages. Eleven years later Governor St. Clair was obliged to adopt a similar expedient for the same reason.[5] But in both cases the judicial institutions thus created were town rather than county courts.

Nine justices of the peace were elected in Kaskaskia, and seven in each of the villages of Cahokia and Vincennes.[6] In Cahokia, at least, elections were regularly held until 1789. During the first few years the formality of taking the oath of office took place on June 19.[7] The observance of this date, which was so religiously adhered to, leads me to believe that it was the anniversary of the inauguration of the first popular government in Illinois by John Todd. Interesting as would be the determination of the date of this event in the history of the

1. Mason, *Philippe de Rocheblave and Rocheblave Papers, Fergus Hist. Series*, No. 34, pp. 257, 262.
2. *Ibid.*, 289. Rocheblave called both of them Englishmen.
3. Roosevelt, *The Winning of the West*, I, 320-322; *Clark's Memoir*, in Dillon, *Indiana*, 115-119. Todd's presence in the campaign has been questioned. English, *Conquest of the Northwest*, I, 253. But see Mason, *Illinois in the Eighteenth Century*, 51.
4. *Statutes at Large*, V., 45; Howard, *Local Constitutional History of the U. S.*, 88-97; Channing, *Town and County Government*, *J. H. U. Studies*, II, 45.
5. Smith, *St. Clair papers*, II, 172.
6. *Juge de Paix*.
7. Record of the court at Cahokia.

state, the evidence is not sufficient to give more than a probable result. It is known that Todd appointed the militia officers in Cahokia on May 14, 1779, and about the same time must have announced the election of the civil offices.[1] Law and common usage would have required that some time elapse after the proclamation before proceeding to the election, so that, with preparations and delays, it might well have been June 19 before the new government was installed. The "cherif" was for a few years also elected by popular vote; but later he was named by the court, as were the clerk and bailiff (*huissier*) from the beginning.[2]

The court held a session regularly every month. Usually one day was sufficient for the transaction of all legal business; but occasionally there were adjournments to the next day and also extraordinary meetings during the month. For the interim the court appointed one of its members *juge de semaine*, whose duties were similar to the Virginia justice of the peace. Without a careful study of the record, it will be impossible to pass judgment upon the law in use; but there is no reasonable doubt but that in most cases the French law was followed, although at times the English procedure and probably the law were used. There are several instances of trial by jury, the first occurring in 1780.[3] In this first case the eight jurors were illiterate Frenchmen and made their marks. In the registration of deeds the same formulae were employed as in the register of the French court described above.[4]

The government thus established was soon left to its own guidance without interference on the part of Virginia. John Todd had decided as early as Aug. 17, 1779, to ask to be relieved of his office, and he remained in Illinois only until the end of the year. On Dec. 23, he wrote Governor Jefferson from the "Falls of the Ohio," evidently having left his post. Jefferson desired him to reconsider his decision; but there is no evidence that he ever returned or that a successor was officially appointed. The other officials of the county continued to regard him as the head of the government until October, 1780, as is proved by their letters to him.[5] After that date communication between the east and Illinois was only intermittent. The legal condi-

1. Mason, *John Todd's Record-Book, Fergus Hist. Series*, No. 33, p. 164.

2. *19 Juin 1780* *Pres. Capt. Trottier*
Ch. Gratiot
Michel Beaulieu
Antoine Girardin
Pierre Martin
La cour assemble *Bpte. Saucier*
Joseph Lepage, J. Bpte. La Croix, Clement Langlois, Ch. Duchesne, Fr Couree, Philippe Jervais. Antoine Armant comme ayant ete nome par une assemble public dimanche dernier 18 du curant dans la maison de M. Fr. Trottier Cap. Commandant la milice des Cahokios pour prendre lieurs place comme en qualite de juge de paix, etc.
Les suivant juges mentiones en l'autre part par la derniere election faite out prie le serment de fidelite aux Etats ainsi que celui de juge de Paix etc. selon leurs liste a l'exception de Joseph Lepage absant.
La cour a ordonne que Fr. Saucier soit appointe clark de la cour.
(There followed the oaths of clark and bailiff.)
Jean Bte. Hubert la Croix a remi a le cour la commissuon de Cherif.—From the record of the court at Cahokia.

3. If juries were not used during the English period, as appears to have been the case, this was the first recorded jury trial in the territory of the present state of Illinois.

4. Here is an example from the clerk's register: *Se requerant la dite Marie Aubuchon insinuation du dit testament lecture faite de celui en notre greffe nous l'avons insinue et enregistre sur la registre des insinuation de la siege suivant l'ordonnance pour servir et valoir ce que de raison dont act le dit jour et an.*

5. Mason, *John-Todd Papers, Fergus Hist. Series*, No. 33, pp. 157, 189, 206, 211, 227, 229.

tion of the government of the country became anomalous, for the Virginia Act of 1778 establishing the county was to remain in force only for twelve months and thereafter until the end of the next session and no longer. In May, 1780, the act was continued by the assembly for a similar period, and was not renewed.[1] "The statutory organization of Illinois expired, therefore in 1781, and from that time until the passage of the ordinance of 1787, there was no government resting upon positive provisions of law in the territory northwest of the Ohio river."[2]

The reason for this cessation of Virginia's interest is to be found in her negotiations with the United States' government in regard to the cession of this territory to the latter. A bill to that effect was passed by the Assembly as early as Jan. 2, 1781, but the business dragged through several sessions of the United States congress, and it was not until March 1, 1784, that the official cession was completed.[3]

This transfer of sovereignty made no immediate change in the form of government or in the political condition in Illinois.[4] The isolation of the county was only occasionally broken. In 1783, there were in the county Virginia commissioners, who reported that the greatest confusion prevailed for lack of proper government.[5] The French also made several attempts to arouse either Virginia or the United States to take some action in their behalf. In the register of the clerk of the court of Cahokia there is an account of an assembly of the inhabitants called by the commandant April 3, 1781, at which Pierre Provost of Kaskaskia was appointed to represent them in Virginia, and, if necessary, at the congress of the United States. Later in 1783, M. Carboneaux was sent to Virginia on a similar mission. He reported that the magistrates through neglect of their duty had lost all control, that murderers were unpunished, and that certain persons were establishing themselves as lords of the soil.[6] The same representative afterwards carried his complaint to congress and on Feb. 21, 1785, that body determined to send commissioners to Kaskaskia; but there is no evidence that any further action was taken.[7] In the summer of 1786, the inhabitants of Kaskaskia again petitioned congress for a government. The reply was that it had, "under consideration the plan of temporary government for the said district and its adoption will be no longer protracted than the importance of the subject and a due regard to their interest may require."[8] The next year Gen. Harmer visited the district and stopped some of the abuses such as land grabbing.[9] The government promised by congress was not established in Illinois until the spring of 1790.

1. Hening, *Statutes at Large*, IX, 555, X, 308; Appendix, IV.
2. Boyd, "The County of Illinois," in *Amer. Hist. Rev.*, IV, No. 4, 625.
3. *Journal of Congress*, VIII, 199, 203, 253, IX, 47-51; Hening, *Statutes at Large*, XI, 571-575.
4. Journals of Congress, IX, 47-51.
5. *Draper Collection, Clark Mss.*, LX, *Illinois Papers*, No. 3, 52. This is a copy of a document in the office of the Auditor of Public Accounts of Virginia.
6. *Ibid*, No. 3, 1-4. This is only an extract from the original document; Roosevelt, *The Winning of the West*, II, 185.
7. *Journals of Congress*, X, 45; Boyd, *County of Illinois*, in *Amer. Hist. Rev.*, IV, 634, note 2.
8. *Journals of Congress*, IV, 688.
9. Smith, *St. Clair Papers*, II, 32; *Amer. State Papers, Public Lands*, I, 10.

Left to themselves it is not strange that the needs of society required of the institutions, created under the Virginia Act, other and more complex duties than had been originally intended; and in the difficulties of the people struggling with the problem of self government, is found sufficient cause for extending the limits of power belonging to court and commandant. These limits had been, at best, very indefinite, as a reading of the original act and the instructions of Patrick Henry show. In each of the villages, Kaskaskia, Cahokia, and Vincennes, was a commandant and a court with other officials. Over these was the county lieutenant. On his departure, Todd apparently appointed Richard Winston as his deputy. That he regarded Winston as next in command is proved by his letter in which he delegated to him the chief command during a temporary absence.[1] Demunbrunt, in his memorial to the governor of Virginia, in December, 1791, stated that "when Col. Winston was appointed to the command of the county of Illinois," the "said colonel" commissioned him as commandant of Kaskaskia.[2] The title of colonel was that borne by the county lieutenant. Additional evidence is found in the register of the clerk of the court, where there is a letter from Winston in which he signed himself, County Lieutenant.[3] This letter was dated June 29, 1782. When he ceased to act as head of the government does not appear from any of the records.

On the authority of Governor St. Clair's statement that after Todd's departure, "a person by the name of De Numbrun was substituted," it has been generally believed that Demunbrunt acted at some time in the capacity of county lieutenant; but he clearly stated in his memorial to the Governor of Virginia that he had been appointed commandant of Kaskaskia by Winston.[4] In Todd's Record-Book there are two entries made and signed by Demunbrunt as Lieutenant Commander, which certainly is not a title corresponding to county lieutenant, but was more likely borne by the commandant of the village.[5] After the end of Winston's rule, probably there was no general government for the whole county, but each village controlled its own destiny. There is a hint that such was the case in the fact, that in 1783 the judges of the court at Cahokia assumed the name of magistrates, and the title of commandant of Cahokia does not appear in the record after that date. Francois Trottier, who had been appointed commandant by Todd, in the spring of this year petitioned the court to relieve him of his office temporarily, as he was obliged to leave Cahokia. Later in the record he was always called M. Francois Trottier, a significant fact.[6]

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1. Mason, *John Todd's Record-Book, Fergus Hist. Series* No. 33, p. 172.
2. *Cal. of Va. State Papers*, V, 407.
3. Folio 19.
4. *Amer State Papers, Public Lands*, I, 19; Boyd, *County of Illinois, Amer. Hist. Rev., IV*, 631; *Cal. of Va., State Papers*, V, 407; Smith, *St. Clair Papers*, II, 169. Since writing the above I have found in the collection of the Chicago Hist. Society a document, dated 1784, signed Timothe Demunbrunt, Major Commandant.
5. Mason, *John Todd's Record-Book, Fergus Hist. Series*, No. 33, p. 185. Under the French the major commandant was in charge of the district, while there were other commandants in each of the villages, perhaps called lieutenant commandants.
6. Record of the court at Cahokia. The title of magistrates was, however, given to the Virginia justices. Ingle, *Local Institutions of Virginia, J. H. U. Studies*, III, 89..

By a careful study of the record of the court it will be possible to fill out our knowledge of the history of the period from 1779 to 1790, which up to the present time, owing to the scarcity of sources, has been very fragmentary. A superficial examination of the sessions shows that the court exercised many sovereign powers, some of which belonged legally to it, while others may have been assumed from necessity or from the desire for gain. Instances of such administrative acts are numerous. The court summoned assemblies of the people; issued proclamations and passed resolutions, all the judges signing the record on such occasions; fixed its own fees, which were not excessive, since the schedule followed closely that of the French court. Such acts probably did not exceed the limits of power accorded any Virginia county court, or the authority specially granted to that at Cahokia. Todd had been instructed by Governor Henry to consult with the most intelligent of the inhabitants, and he had probably permitted the courts to decide all local questions. This power they continued to exercise after his departure.[1] The principal abuse of power, charged against these courts of Illinois, was that they granted titles to land. This they unquestionably did, and were probably guilty of many frauds. The judges at Vincennes pleaded ignorance as an excuse for their action. They said that after the departure of Todd the commandant assumed that he had the same rights as were exercised by the French commandants and granted this privilege to the court.[2] The French commandant with the counsel of the civil judge did possess the power of granting land to the settlers, as is shown by the numerous claims based upon such grants in the volumes devoted to the public lands in the American State Papers. Their authority for so doing was delegated to them by the governor and intendant of the province of Louisiana.[3]

That Todd had the same right was denied by Governor St. Clair. But Todd's own proclamation and his subsequent action prove that he believed that the discretionary power given him included also this authority. In the proclamation of June 15, 1779, he prohibited all persons from making new settlements upon the bottom lands, except in the manner practiced by the French. The proclamation was made, because he feared an inrush of speculators; so he refused to allow settlements except in the long narrow strips of the French grants, which stretched from the river to the bluffs.[4] Later Todd gave land to the settlers at the new post, which was erected at the junction of the Mississippi and Ohio rivers, and asked the assembly of Virginia to settle the price saying nothing about the confirmation of titles.[5]

If Todd believed himself empowered to dispose of land titles in this manner, there is nothing strange in the fact that Winston, who was his delegate and successor, should have acted as if he had the same authority. But after 1782 there is no evidence that Winston or anyone else held the office of county lieutenant.[6] What authority,

1. Mason, *John Todd's Record-Book, Fergus Hist. Series*, No. 33, pp. 154-164.
2. Roosevelt, *The Winning of the West*, II, 181; *Amer. State Papers, Public Lands*, I, 10, 18.
3. *Ibid.*, I., 10, 16; *Edits, Ordonnances Royaux*, etc., I, 572-574, 590.
4. *Amer. State Papers, Public Lands*, I, 18; Mason, *John Todd's Record-Book, Fergus Hist. Series*, No. 34, p. 171; Roosevelt, *The Winning of the West*, II, 171.
5. *Cal. of Va. State Papers.*, I, 358.
6. See page 21, note 4.

except that of the courts and possibly of the local commandant, remained in the county to regulate the occupation of the land? And there was need that authority be exercised, for the conditions were rapidly changing. Americans were crowding into the territory; 103 settled in Vincennes and a larger number in Illinois before 1787.[1] They even forced themselves into the government, the names Philip Engel and Thomas Brady appearing on the list of judges at Cahokia in 1785. On account of these conditions and since the United States delayed, the courts assumed the authority, which circumstances forced upon them. After the first grants, there was no hesitation and many frauds were practiced. That the magistrates believed, as those of Vincennes declared, that they were acting within their authority seems reasonable. But certainly the delegation of power from Todd to the courts had been stretched beyond the utmost limits.

With the two exceptions, Brady and Engel, the court was, and remained from beginning to end, French in its personnel. There was no law against re-election and generally one or two magistrates of the preceding year were re-elected; but no name appears for many successive years except that of Philip Engel, who remained judge from 1785 to 1790. The first clerk was Francois Saucier, who was succeeded in 1785 by Joseph Labuxiere, of whom mention has already been made, For some reason he failed to be re-appointed in 1788; but the successful candidate, Pierre Billet, served only a few months, when Labuxiere was recalled to the office which he retained until the coming of Governor St. Clair.

1. Roosevelt, *The Winning of the West*, III, 235, note 1.

DOCUMENTS OF ILLINOIS UNDER THE DOMINION OF THE UNITED STATES, 1788-1818.

The next group of documents falls in the period between the organization of the northwest by Governor St. Clair and the establishment of Illinois as a state in 1818. Since there are numerous other sources for the history of this period, the Belleville documents do not contain much of general interest. For this reason and because the report is already long, I have limited myself to indicating the course of events without further discussion. For a list of the documents reference may be made to the catalog.

The government of the Northwest Territory was organized 1788; but it was not until March 5, 1790, that St. Clair reached the Illinois and put an end to the French court. This held its last session April 1,1790 and adjourned to May 3, a date it was not destined to keep: because St. Clair, on April 27, 1790, established St. Clair County, which included the southwest part of the present state between the Illinois and Ohio rivers.[1] Since the French villages were so far apart, the Governor divided the county into three districts, "though not strictly warranted by law", and the "judges of the peace" were so distributed that the courts could be held in each, while the judges of probate, the prothonotary of common pleas, and the clerk were instructed to appoint deputies to act in two of the districts.[2] Later, in 1795, Randolph county with Kaskaskia as county seat was separated from St. Clair, Cahokia being the chief place of the latter.

One of the most serious difficulties confronting the new government was the question of land titles. The whole subject of land grants under the French, English, and Virginia dominions was investigated, but it was not until the first of the nineteenth century that it was finally adjusted.[3]

In the year 1800, the Northwest Territory was divided into Ohio and the territory of Indiana which included Illinois. Finally in 1809 this was again divided, Illinois territory including the district west of the line reaching from the Wabash, "due north to the territorial line between the United States and Canada."

1. Greene, *The Government of Illinois*, 14; Moses, *Illinois Historical and Statistical* I., 196; Smith, *St. Clair Papers*. II, 165.
2. *Ibid.*, II, 172.
3. *Amer. State Papers, Public Lands*, I, and II; *U. S. Statutes at Large*, II, 3

The relative paucity of documents of these years is very surprising, and I have found no adequate explanation. With the exception of the records of deeds and of wills, with a record of the court of common pleas for a few months during the years 1795 and 1796, there has been preserved almost nothing of interest before the year 1808. After that date the documents are numerous and all offices show complete records from the time Illinois was admitted as a state in 1818.

Catalog of the Oldest Documents in the Court House at Belleville.

In this catalog I have described the documents as they were previous to my visit to Belleville. Since that time, the documents in the office of the circuit clerk have been bound in a uniform black cloth binding with leather corners and back. What has been done with the loose and unclassified papers in the county treasurer's office (No. 12 of the catalog), I do not know. A recommendation was made to the supervisors that these be arranged in order and deposited in a safer place. Some explanation of the cause of such combinations of documents in the same binding, as in the case of No. 5, is needed. These documents were in the greatest confusion, when I first saw them. Without a premonition that my arrangement was to be regarded as final, I assorted them and placed, for their better preservation, the loose sheets and the smaller documents with others of similar size. The binder has perpetuated these accidental unions. For the same reason the *Extrait des Registre de la Jurisdiction des Cahos* has been dignified with some parchment covers, which were without contents until I placed this clerk's register within them, because it fitted.

Office of the Circuit Clerk.

1. *Registre des Insinuations des Donations aux Siege des Illinois*, January 15, 1737—June 26, 1769.
   Bound in parchment; size, 13½ by 8½ inches; pages, 146; blank pages, 1; last page missing; water-mark, shield with *fleur-de-lis*, surrounded with scroll; 122 registries; language, French; on first cover Insinuations is spelt *Insinutions*, but it is corrected on the back cover.
2. a. Record of the court at Cahokia, November 26, 1779—April 1, 1790.
   Unbound; made up of six record books sewed together; size varies, but it is about 12½ by 8 inches; pages, 348; blank pages, 48; several pages missing; various water-marks; no name to document; language, French.
   b. Record of public sales, November 2, 1778—June 22, 1782.
   Unbound; pages, 50; blank pages, 10; water-mark, DURHAM; no name given to document; language, French.
3. *Extrait des Registre de la Jurisdiction des Cahos*, December 12, 1778—October 28, 1788.
   Originally bound in flexible paper cover, it was placed by me in the parchment covers in which it is now bound; size, 15 by 9½ inches; pages, 58; blank pages, 4; pages numbered Folio 5, etc.; language, French, but there are a few English deeds and letters; it is the register of the clerk of the court acting as recorder.

4. *Registre des audiences par(?) Le juge de Semaine comence Le 9 juillet 1785 et reforme Le 14 fevrier 1786 a la Cour tenue le d' jour.*
   Unbound; size, 11½ by 8¾ inches; pages, 20; blank pages, 4; water-mark, star and D C within oval; language, French.
5. a. Record of court at Cahokia, December 31, 1778—May 7, 1779.
   Loose sheets; size, 12½ by 8 inches; pages, 8; watermark, lion rampant holding a bunch of arrows and a standard, within a circle; language, English; no name to document.
   b. *Minutes of General Court of Illinois Territory, St. Clair County, April Term, 1811.*
   Unbound; pages, 28; language, English.
   c. Minutes of the same, September term, 1813.
   Unbound; pages, 54; language, English.
6. Settlement of the estate of M. and Mad. Charleville, 1781.
   Unbound; size, 12½ by 8 inches; pages, 58; no name to document; language, French; at the end, there is a letter in English to the court, dated July 9th, 1789.
7. *Record A. of the Court of Common Pleas of St. Clair Couuty*, October 6, 1795–April, 1796.
   Bound in flexible paper cover; pages 90; blank pages 1; records of 43 sessions; water mark, a crown with C R below; language English.
   There are complete records of the circuit court since 1808.

OFFICE OF THE COUNTY CLERK.

8. Record A. of the County Clerk.
   This record has been misplaced, so that I was unable to see it. It covers the period previous to 1817, and is a record of administrative proceedings.

OFFICE OF COUNTY TREASURER.

9. About 370 unclassified legal papers belonging to the court of Cahokia, 1778-1790, in two tin filing cases.
   They are generally in French and are written on all kinds of paper, some of them mere scraps. They are requests for writs of various characters, statements of claims by petitioners, sheriff's warrants, etc. There are among them some papers of a later date.

OFFICE OF PROBATE CLERK.

10. Entries of Letters of Administration and Testamentary, etc., issued by the Clerk of the Court of Common Pleas in Vacation as by the Law of the Territory, March 10, 1794–March 18, 1831.
    Ten years ago, the book was bound in vellum, but has since been rebound in stiff board covers and marked *Wills*. Page 153.

OFFICE OF THE RECORDER.

11. *Record A. St. Clair Co.*, April 26, 1790–September 7, 1796.
    On fly leaf is written, "By his excellency Arthur St. Clair Esquire Governor and Commander in Chief of the Territory of the U. S. North West of the River Ohio." Bound in stiff board covers; size quarto; pages 302; blank pages, several; contents, private deeds of all kinds; language French and English. There is also a copy of this record in a very clear hand-writing.
12. *Record B.* March 14, 1800—March 23, 1813.
    Bound in heavy board covers; size folio; pages 663; blank pages, several; contents, deeds of all kinds; language English.
13. A record of Land Claims under Virginia and U. S. grants, November 5, 1798.
    Bound in flexible covers; pages 92; blank pages 46; the book was written by John Hay and the language is English.

RECOMMENDATION.

There are so many more important documents of the French period to be edited, that it does not seem wise to expend money on the immediate publication of the *Registre des Insinuation des Donations*. No doubt a more intensive study of the contents would yield something fruitful for our knowledge of the law, social conditions, and genealogy of the French in the Mississippi settlements. Yet the results would be more of local than general interests. For much of the analysis of the institutional conditions existing in the French colonies which is contained in this report, I would have chosen some other source than the *Registre*, had such been available; for it contains hints rather than explanations of the machinery of government. Possibly later a short study of the internal evidence with a few typical documents might be made with profit.

When we come to the documents of the Virginia period the recommendation must be the opposite. All of these documents are important and give new and valuable information on the history of the conquest of Illinois and the government of the succeeding period. Up to the present time little has been known about the courts established by Clark or in regard to the government founded by Todd. As soon as possible this material should be published. I recommend that a volume containing the record of Clark's court, selections from the clerk's register, and a full record of the court established under the Virginia act be issued. It will be unnecessary to publish all the clerk's register as many of the documents are inventories, promissory notes, and letters of local interest, typical examples of which would be sufficient for such a volume.

There is no document of the later period that is worth publication at this time, with the possible exception of Record A. of the Recorder's office. An interesting selection from these deeds might be made.

Although my report is confined to the documents of the Belleville court house, still I feel that the time and opportunity are propitious for a suggestion on the future policy to be pursued in the publication of the historical sources of the state. Up to the present, most of the American state governments and historical societies have contented themselves with a haphazard publication of documents. The longer this policy is continued, the more difficult will become an exhaustive and systematic publication of the historical sources of the states and more complicated the work of the student. It is time the American states should follow a plan for the complete publication of historical material, as the European states have been doing for the past century. The best methods for such a work have already been evolved by the Germans in the *Monumenta Germaniae Historica* and the historians of other European states have followed their lead, so that today these students are carrying to completion the work of publication along definite lines, which were carefully mapped out years ago.

Some such plan for the exhaustive publication of the material for the history of Illinois can now be made, so that the work of future editors of documents and narratives may be directed by a general

scheme. The general outlines of such a plan will not be difficult to formulate and should be determined by a commission of historians of the state. They might decide on a purely chronological plan or better still on an arrangement of documents and narratives with reference to their character and chronology. However, before much can be done, there must be made a careful examination of the archives of the State and a bibliography of the historical material already published.

For the survey of archives, arrangements have already been made, I believe, by the Trustees of the State Historical Library and by the Historical Manuscript Commission of the American Historical Association.

APPENDIX I.

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APPENDIX II.

ORDINANCE OF FEBRUARY, 1731, CONCERNING DONATIONS.

Isambert, Decrusy, Taillandier, *Recueil general des anciennes lois francaise*, XXI., 343-356.

ART. 1. All acts of donations *inter vivos* shall be passed before notaries, and there shall be made minutes of them, on penalty of nullity.

2. Donations *inter vivos* shall be made in the ordinary form of contracts and of acts passed before notaries, and all other formalities, which have been required up to the present, in the different laws, customs and usages of the land under our dominion, shall be observed.

3. All donations *mortis causa*, with the exception of those which are made by contract of marriage, shall *not* be effective, hereafter, unless they shall be made in the same form as wills and testaments, all other laws and customs to the contrary notwithstanding; so that in future there shall be only two forms of disposing of property gratuitously, one of which shall be that of donations *inter vivos*, and the other, that of wills and testaments.

* * * * * * *

5. Donations *inter vivos*, likewise those which are made to the Church or for pious purposes, can be binding on the donor and be effective, only from the day they shall be accepted by the donee or his attorney, general or special. In the latter case the power of attorney shall be attached to the minute of the donation. And in case the donation should have been accepted by a person who shall have declared himself the agent of the donee, the said donation shall take effect only from the day of the express ratification, which ratification the said donee shall have made by act passed before a notary, the minute of which act shall be preserved. We forbid all notaries and *tabellions* to accept donations in favor of absent donees on penalty of nullity of said act.

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15. No donation *inter vivos* can include other property than that which shall belong to the donor at the time of the donation.

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17. Nevertheless, we wish that donations, made by the marriage contract, in favor of the husband and wife or of their descendants, even when made by collateral relatives or by strangers, be excepted from the provision of article 15, and that the said donations, made by contract of marriage may include both present property and that to be acquired in the future, all or in part; in which case, it shall be at the choice of the donee, either to take the property, such as it is at the time of the death of the donor, and to pay all debts and charges, even those which shall have been made subsequent to the donation, or to receive only the property which existed at the time when the donation was made, and to pay only the debts and charges existent at that time.

* * * * * * *

19. Donations made in contracts of marriage in direct line shall not be subject to the formality of registration.

23. In all cases, where registration is required on penalty of nullity, donations of real property or of that which, without being real, is taxed according to the law, customs or usages of the land, and do not follow the person of the donor, shall be registered, on penalty of nullity, at the bureau of the bailiwick, or of the royal seneschal's court, or of other royal court with direct appeal to our court, of the district in which is situated the domicile of the donor, and also of the district in which the property is taxed; and in regard to personal property, likewise immovables which are not taxed and follow the person of the donor, the registration shall be made only at the bureau of the bailiwick, or of the royal seneschal's court, or of other royal court with direct appeal to our court, of the district in which is situated the domicile of the donor. We forbid all registration in other jurisdictions or in courts of seigniors, even in those of peers; and in case the donor's domicile is situated in such a jurisdiction, the registration shall be made at the bureau of the court which has the cognizance of royal cases in the district where the domicile is and where the property is situated, all on penalty of nullity.

24. In the future, there shall be in each bailiwick or royal seneschal's court a particular register, which shall be numbered and paraphed on each leaf by the first officer of the court, and closed at the end of each year by the said officer; in which register there shall be written the entire act of donation, if it is made by a separate act, if not, the part of the act which shall contain the donation, its charges and conditions without omitting any of it, so that the engrossment or the effective copy of said act will be represented without need of consulting the minute.

25. The guardian of the said register shall be required to give access to it at any time without a command from the court, and to deliver to parties, upon demand, an extract signed by himself, for which he shall receive a reasonable remuneration in accordance with our regulations of the 17th of the present month.

26. When the registration shall have been made within the period prescribed by the ordinances, even after the decease of the donor or donee, the donation shall be effective from the day of its date for all persons. It may be, nevertheless, registered after the decease of the donee, provided the donor is still alive; but it shall be effective in that case only from the day of registration.

APPENDIX III.

ROYAL FRENCH NOTARIES IN THE WESTERN SETTLEMENTS.

Although the following list of French notaries in the western lands of America is far from complete, owing to the lack of available sources, it has seemed best to publish it, if for no other reason than to call the attention of local historians to the material to be found in the acts of this class of officials. A complete list cannot be made until the notarial acts in New Orleans have

been examined. Mr. Beer of the Howard Memorial Library writes me that "about sixty boxes of unexamined notarial deeds of dates mostly prior to 1800" are in the archives of the Louisiana Historical Society. And "in the city archives in the City Hall, there are at least two volumes of early date."

Jean Baptiste Bertlor Barrois,[1]
at Kaskaskia, January 15, 1737, to December, 1754.
at Nouvelle Chartres, December, 1754, to March 10, 1757.

Joseph Labuxiere,[2]
at Nouvelle Chartres, March 14, 1757, to October 12, 1764.
at St. Louis, 1765, to May 20, 1770.

Leonard Billeron,[3]
aux Illinois, February 14, 1733, and October 25, 1736.

Jerome Rousillet,[4]
at Fort Chartres, February 14, 1733, and November 8, 1739.

Placé,[5]
aux Illinois, November 17, 1731.

Phillibert and Baumer,[6]
at Vincennes, the latter until 1761.

Bouvier,[7]
at Vincennes, August 2, 1763.

Francois Louis Cardin,[8]
at Michillimackinac, April 6, 1754.

Robert Navarre,[9]
at Detroit, May 15, 1741, to 1759.

Jean Baptiste Campeau,[10]
at Detroit, May 15, 1758, until the end of the French regime.

Duplessis,[11]
at New Orleans, May 31, 1740.

Henry,[12]
at New Orleans, May 21, 1740.

Chantalou,[13]
at New Orleans, August 1, 1749.

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1. *Registre des Insinuations des Donations aux Siege des Illinois.*
2. *Ibid.*; Billon, *Annals of St. Louis, passim.*
3. *Registre des Insinuations des Donations;* Roy, *Histoire du Notariat*, I., 371. M. Roy states that he was appointed by the Lieutenant General of Montreal and was still in Kaskaskia in 1759; but I have found no record of his presence there after 1736, the year before Barrois began to act as notary.
4. *Registre des Insinuations des Donations*, October 25, 1741. I know nothing more about him than is contained in these acts. Rightly or wrongly I have identified a M. Jerome with a Jerome Rousillet, both notaries of Fort Chartres. If the identification is correct, he died between November 8, 1739, and October 25, 1741, on which date the clerk wrote of the late M. Jerome.
5. *Registre des Insinuations des Donations.*
6. Baumer succeeded Phillibert. Dunn, *French Settlements on the Wabash*, 26; Dunn, *Indiana*, 80, 99, 101.
7. He was acting as notary. *Registre des Insinuations des Donations.*
8. Roy, *Histoire du Notariat*, I, 371.
9. *Ibid.*, I, 370.
10. *Ibid.*, I, 371.
11. *Ibid.*, I, 377.
12. *Ibid.*, I, 377.
13. *Registre des Insinuations des Donations*, October 20, 1760.

APPENDIX IV.

ACT CREATING THE COUNTY OF ILLINOIS.

Hening, *Statutes at Large of*, (Virginia,) IX., 552-555.

AN ACT *for establishing the county of Illinois, and for the more effectual protection and defense thereof.*

WHEREAS by a successful expedition carried on by the Virginia militia, on the western side of the Ohio river, several of the British posts within the territory of this commonwealth, in the country adjacent to the river Mississippi, have been reduced, and the inhabitants have acknowledged themselves citizens thereof, and taken the oath of fidelity to the same, and the good faith and safety of the commonwealth require that the said citizens should be supported and protected by speedy and effectual reinforcements, which will be the best means of preventing the inroads and depredations of the Indians upon the inhabitants to the westward of the Allegheny mountains; and whereas, from their remote situation, it may at this time be difficult, if not impracticable, to govern them by the present laws of this commonwealth, until proper information, by intercourse with their fellow citizens, on the east side of the Ohio, shall have familiarized them to the same, and it is therefore expedient that some temporary form of government, adapted to their circumstances should in the meantime be established:

Be it enacted by the General Assembly, That all the citizens of this commonwealth who are already settled, or shall hereafter settle, on the western side of the Ohio aforesaid, shall be included in a distinct county, which shall be called Ilinois county; and that the governour of this commonwealth, with the advice of the council, may appoint a county lieutenant or commandant in chief in that county, during pleasure, who shall appoint and commission so many deputy commandants, militia officers, and commissaries, as he shall think proper in the different districts, during pleasure, all of whom, before they enter into office, shall take the oath of fidelity to this commonwealth and the oath of office, according to their own religion, which the inhabitants shall fully, and to all intents and purposes enjoy, together with all their civil rights and property. And all civil officers to which the said inhabitants have been accustomed, necessary for the preservation of peace and the administration of justice, shall be chosen by a majority of the citizens in their respective districts, to be convened for that purpose by the county lieutenant or commandant, or his deputy, and shall be commissioned by the said county lieutenant or commandant in chief, and be paid for their services in the same manner as such expenses have been heretofore borne, levied, and paid in that county; which said civil officers, after taking the oaths as before prescribed, shall exercise their several jurisdictions, and conduct themselves agreeable to the laws which the present settlers are now accustomed to. And on any criminal prosecution, where the offender shall be adjudged guilty, it shall and may be lawful for the county lieutenant or commandant in chief to pardon his or her offense, except in cases of murder and treason; and in such cases, he may respite execution from time to time, until the sense of the governour in the first instance, and of the general assembly in the case of treason, is obtained. But where any officers. directed to be appointed by this act, are such as the inhabitants have been unused to, it shall and may be lawful for the governour, with the advice of the council, to draw a warrant or warrants on the treasury of this commonwealth for the payment of the salaries of such officers, so as the sum or sums drawn for do not exceed the sum of five hundred pounds, anything herein to the contrary notwithstanding.

And for the protection and defence of the said county and its inhabitants. *Be it enacted*, That it shall and may be lawful for the governour, with the advice of the council, forthwith to order, raise, and levy, either by voluntary enlistments, or detachments from the militia, five hundred men, with proper

officers, to march immediately into the said county of Ilinois, to garrison such forts or stations already taken, or which it may be proper to take there or elsewhere, for protecting the said county, and for keeping up our communication with them, and also with the Spanish settlements, as he, with the advice aforesaid, shall direct. And the said governour, with the advice of the council, shall from time to time, until farther provision shall be made for the same by the general assembly, continue to relieve the said volunteers, or militia, by other enlistments or detachments, as herein before directed, and to issue warrants on the treasurer of this commonwealth for all charges and expenses accruing thereon, which the said treasurer is hereby required to pay accordingly.

And be it farther enacted, That it shall and may be lawful for the governour, with the advice of the council, to take such measures as they shall judge most expedient or the necessity of the case requires, for supplying the said inhabitants as well as our friendly Indians in those parts, with goods and other necessaries, either by opening a communication and trade with New Orleans, or otherwise, and to appoint proper persons for managing and conducting the same on behalf of this commonwealth.

Provided, That any of the said inhabitants may likewise carry on such trade. on their own accounts, notwithstanding.

This act shall continue and be in force, from and after the passing of the same, for and during the term of twelve months, and from thence to the end of the next session of assembly, and no longer.

BULLETIN

OF THE

Illinois State

Historical Library

Volume I. June 1, 1906. Number II.

Laws of the Territory of Illinois 1809-1811.

Edited by

CLARENCE WALWORTH ALVORD,
University of Illinois.

SPRINGFIELD, ILLINOIS.

SPRINGFIELD:
ILLINOIS STATE JOURNAL CO., STATE PRINTERS
1906

PUBLICATIONS OF THE ILLINOIS STATE HISTORICAL LIBRARY.

*No. 1. A Bibliography of Newspapers published in Illinois prior to 1860. Prepared by Edmund J. James, Ph. D., Professor in the University of Chicago, assisted by Milo J. Loveless, graduate student in the University of Chicago. 94 pages, 8 vo., Springfield, 1899.

*No. 2. Information relating to the Territorial Laws of Illinois, passed from 1809 to 1812. Prepared by Edmund J. James, Ph. D., Professor in the University of Chicago. 15 pages, 8 vo., Springfield, 1899.

*No. 3. The Territorial Records of Illinois. Edited by Edmund J. James, Ph. D., Professor in the University of Chicago. 143 pages, 8 vo., Springfield, 1901.

*No. 4. Transactions of the Illinois State Historical Society for the year 1900. Edited by E. B. Greene, Ph. D., secretary of the society. 55 pages, 8 vo., Springfield, 1900.

*No. 5. Alphabetic catalog of the books, manuscripts, pictures, and curios of the Illinois State Historical Library. Authors, titles and subjects. Compiled under the direction of the Board of Trustees of the library, by the Librarian, Mrs. Jessie Palmer Weber. 363 pages, 8 vo., Springfield, 1900.

*No. 6. Transactions of the Illinois State Historical Society for the year 1901. 122 pages, 8 vo., Springfield, 1902.

*No. 7. Transactions of the Illinois State Historical Society for the year 1902. 246 pages, 8 vo., Springfield, 1902.

*No. 8. Transactions of the Illinois State Historical Society for the year 1903. 376 pages, 8 vo., Springfield, 1904.

No. 9. Transactions of the Illinois State Historical Society for the year 1904. 701 pages, 8 vo., Springfield, 1904.

No. 10. Transactions of the Illinois State Historical Society for the year 1905. 8 vo., Springfield, 1906.

*Illinois Historical Collections. Volume I., edited by H. W. Beckwith, President Board of Trustees of the Illinois State Historical Library. 642 pages, 8 vo., Springfield, 1903.

*Bulletin of the Illinois State Historical Library. Volume I., No. 1, September, 1905. Illinois in the Eighteenth Century. By Clarence Walworth Alvord, University of Illinois. 38 pages, 8 vo., Springfield, 1905.

Circular Illinois State Historical Library. Volume I., No. 1, November, 1905. An outline for the study of Illinois State History. Compiled under the direction of the Board of Trustees of the Illinois State Historical Library. By Mrs. Jessie Palmer Weber, Librarian Illinois State Historical Library, and Secretary of the Illinois State Historical Society; assisted by Georgia L. Osborne, Assistant Librarian. 94 pages, 8 vo., Springfield, 1905.

* Out of print.

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CLARENCE WALWORTH ALVORD,

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Being a revised and enlarged edition of Publication No. 2 of the Illinois State Historical Library. Information relating to the Territorial Laws of Illinois, passed from 1809 to 1812. Prepared by

EDMUND J. JAMES,

Springfield, 1899.

SPRINGFIELD, ILLINOIS.

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1906

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LAWS OF THE TERRITORY OF ILLINOIS, 1809-1811.

INTRODUCTION.*

Second only in importance to the Constitution of the United States is the act, which established civil government in the old Northwest. The Ordinance of 1787 is one of the last acts of the old Congress, and was passed at a time when already the convention was in session to create the Federal Union. The principles of government and law enacted by it have formed the foundation upon which has been built the territorial system of the United States.

In order to understand, therefore, the following laws of the Territory of Illinois, which are published under one cover for the first time in these pages, it is necessary to begin with a study of this noted Ordinance. There were contained in it certain broad principles of justice and liberty, which were the basis of the later territorial codes. Provision also was made for two grades of territories; but only the first concerns us here, for the following laws were passed before Illinois had taken the second step toward statehood. The governing body of the first grade consisted of a governor and three judges appointed at first by Congress, and later by the president with the advice and consent of the Senate. They, or a majority of them, were empowered to, "adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the General Assembly, unless disapproved by Congress."[1]

The laws, which were passed or adopted by this first Legislature of "The Territory Northwest of the River Ohio," were printed before the end of the century in four volumes and were in part incorporated in the codes of the later territories of Indiana and Illinois. At the outset a dispute arose between the judges and the governor in regard to the exercise of their legislative right. The Ordinance of 1787 limited the action of the Legislature to the adoption of laws of the original states; but the judges proceeded to act, as if invested with full legislative power. This caused criticism both in the territory and

* Compare the Introduction to the first edition of this publication prepared by Edmund J. James.

1 The Ordinance of 1787 has been frequently printed. See *United States Statutes at Large*, I., 51-53.

in Congress; and the latter, in 1794, took the question under consideration, but, probably since the ordinance was sufficiently explicit, passed no resolution on the subject.[1] Thereafter territorial judges were more careful to observe the limitations imposed upon them; but laws passed for other conditions did not always meet the requirements of a new country, and changes in the texts of the laws were not infrequent.[2] In 1872, an extension was made by Congress to the legislative power of the governor and judges by empowering them to repeal any law previously adopted.[3]

The code brought together by the first Legislature of the Northwest has all the earmarks of cruelty so characteristic of the law of England and the English colonies during the seventeenth and eighteenth centuries. Stocks, the pillory, and the whipping post, were set up in every county of the territory and put in use for numerous offences. "Thus, for obstructing the authority of a magistrate, the offender shall be fined not more than $300 and receive not to exceed thirty-nine lashes. For larceny, the convicted party, besides restoring double the value of the thing stolen, is required to pay a fine of the same amount, or be whipped not exceeding thirty-nine lashes, according as the court shall determine."[4] The criminal code was nearly completed by the Legislatures of the Northwest and Indiana territories, so that it was not necessary for the governor and judges of Illinois to make many additions to it.

In 1800 the first division of the Northwest was made, the western part, including Indiana and Illinois, being called the territory of Indiana. Within the limits of the new territory there was a small population of a few thousand in three main settlements, at Vincennes, on the Ohio near Fort Massac and at Clark's Grant, and around the French villages on the Mississippi. Three counties had been already established, Knox, St. Clair and Randolph. The seat of government was at Vincennes.[5]

Apparently without special enactment the governor and judges enforced the laws, which had been already adopted by the legislature of the whole Northwest, occasionally repealing those not available.[6] The first new laws adopted were printed at Frankfort, Kentucky, in 1802; others were printed in Vincennes in 1804; and in 1807, when Indiana had passed to the second grade of territory, the general assembly made a revision of all the territorial laws, and enacted, "That the laws and parts of laws in force in the territory at the beginning of this session of the legislature shall be, and the same are hereby repealed, and the revisal of the said laws as made by John Johnson and

---

1 *Annals 3d Congress*, 1214 and 1233; Howe, *Laws and Courts of Northwest and Indiana Territory;* Indiana Hist. Soc. *Pamphlets*, No. 1, p. 9; Smith, *St. Clair Papers*, II., 356; Hinsdale, *Old Northwest*, 298 *et seq.*

2 Burnet, *Notes on the Northwestern Territory*, 63.

3 *U. S. Statutes at Large*, I., 286.

4 Howard, *Local Constitutional History of United States*, I., 416 *et seq.;* Compare also: Howe, *Laws and Courts of Northwest and Indiana Territories;* Indiana Hist. Soc. *Pamphlets*, No. 1, pp. 7 *et seq:* Edwards, *History of Illinois, and Life of Ninian Edwards*,, 155 *et seq.*

5 Howe, *Laws and Courts of Northwest and Indiana Territory*, 12; Hinsdale, *Old Northwest*, 307; Dunn, *Indiana*, 295.

6 Howe, *Law and Courts of Northwest and Indiana Territories*, 11.

John Rice Jones shall, with the several additions, alterations and amendments made by the present legislature, have full force and effect in this territory; and that those laws so revised, altered and amended, shall, with the laws passed at this session of the legislature, be the only statute laws in force in this territory."[1] These revised statutes of Indiana fill a volume of 540 pages and are the laws adopted at the first meeting of the governor and judges of Illinois. They, therefore, form the bulk of Illinois' first code, and the laws printed in this "Bulletin" are but supplementary to them.

The journey from the bottom lands of the Mississippi to the capital of the territory was long and difficult; so it is not surprising that as early as 1806 the settlers in and around the old French villages began petitioning Congress that a new territory be created out of the more western part. The petition was repeated for two years; and, in spite of opposition of the eastern division, was granted on January 18, 1809, and received the approval of the president February 5. The law went into effect March first. The new territory was called Illinois.[2]

The governor appointed by the president was Ninian Edwards; the secretary, Nathaniel Pope; and the judges, Alexander Stuart, Obadiah Jones and Jesse B. Thomas. The last named resided at the time of his appointment in Indiana; but his advocacy, as territorial delegate to Congress, of the division of the territory, had made him so unpopular across the line that he was glad of an opportunity to identify himself with the new territory.[3] On March 10, 1810, Stanley Griswold was appointed in place of Obadiah Jones;[4] but these judges were relatively less active in the work of legislation than the others, as may be seen by the signatures to the successive enactments. The governor, however, appears to have been very conscientious in the performance of his duties and missed only two meetings, when in accordance with the provisions of the law the secretary took his place.

On June 13, 1809, the first legislature of Illinois territory met in the house of Thomas Cox at Kaskaskia. The governor with Judges Stuart and Thomas were present. Their first act was to adopt the Indiana laws except those which were of local character, thus making law for Illinois the code which had been evolved by the two preceding governments, that of the whole Northwest and that of Indiana.

In all, thirty-five laws were passed by this temporary legislature. It will be noted that it is not always stated from what state codes these laws were adopted; nor was it necessary in all cases, since the power of repealing previously adopted laws resided in the legislature and many of the following enactments are simply cases of repeal; others are mere regulations for the administration of the laws. As might be expected the laws of Kentucky were the most popular in Illinois, and six were adopted from the code of that state. This was certainly contrary to the letter of the ordinance of 1787, since Ken-

1 *Revision of 1807*, p. 539. The quotation is taken from Howe, *Laws and Courts*, 17.

2 *Annals 9th Congress, 2nd Session*, 590; *ibid 10th Cong., 1st Sess.*, Vol. 2, pp. 1976, 2067; *ibid, 2nd Sess.*, 18, 327, 330, 335, 338, 815, 862, 1808.

3 Davidson and Stuve, *History of Illinois*, 244.

4 Edwards, *History of Illinois and Life of Ninian Edwards*, 28.

tucky was not one of the original states. Three laws are taken from Georgia, and one each from Virginia, South Carolina and Pennsylvania. Eleven were, therefore, adopted from southern states and only one from a northern. The full significance of this is realized, when compared to the sources of the laws adopted by the governor and judges of the Northwest territory. In the so called "Maxwell Code" of 1795, thirty-four laws were taken from northern states and only three from southern.[1]

In the year 1812, Illinois passed out of the first stage of territorial government and a legislature was elected by the people, which made many changes in the old laws and enacted many new ones. In June, 1815, a revision of the territorial laws was made by Nathaniel Pope and published by Matthew Duncan, printer to the territory. But the earlier laws of the governor and judges were never collected, although Governor Edwards, in 1812, had some correspondence on the subject with Joseph Charless of St. Louis, publisher of the "Louisiana Gazette."[2] When these laws became of historical interest, in some unaccountable way they had disappeared from those depositories, where they should have been preserved. The history of the loss and finding of these documents is of sufficient interest to be noticed.

In 1897, Dr. Edmund J. James, in the interest of the State Historical Library, caused search to be made for the territorial laws in the archives of Springfield, but without success, although Judge Gross of that city was sure that he had seen the originals in the Secretary of State's office. Since the Ordinance of 1787 required that copies of all acts should be sent to the Secretary of Congress—later this was changed to the Secretary of State—the search was extended to the archives of Washington, with the result that copies of the last four laws were found. Convinced that these were the only existing records of the first Legislature of Illinois, Dr. James published them in "Publication" of the Illinois State Historical Library with a list of the titles of the laws adopted, which was found in the "Executive Register of the Illinois Territory."[3]

Within the past few months the search was renewed by the department of historical research of the Carnegie Institution. Since Congress on May 8, 1892, enacted, "That laws of the Territory Northwest of the River Ohio, that have been or hereafter may be enacted by the Governor and Judges thereof, shall be printed under the direction of the Secretary of State", the search was extended to the printed volumes of the territorial laws;[4] but the result was the same as in the case of the search initiated by Dr. James. The above enactment was not extended to the territory of Illinois.

In the summer of 1905, the writer was sent by the State Historical Library into southern Illinois to search for historical material. Hidden away on the top of the book-cases in the circuit clerk's office at

1 Howe, *Laws and Courts of Northwest and Indiana Territories*, 16.

2 Washburne, *The Edwards Papers*, 67.

3 *Publications* of the Illinois State Historical Library Number 2. Information relating to the Territorial Laws of Illinois, passed from 1809 to 1812. Prepared by Edmund J. James, Ph. D. Phillips Bros., State Printers, 1899.

4 *Annals 2nd Congress*, 1397.

Chester were found some sacks and packages of old documents, which had been brought from Kaskaskia, when the county seat was moved. Most of these, which were of historical interest, dated from the eighteenth century; but among them was one bundle of papers tied with buckskin, which proved to contain the copies of these territorial laws made for the county of Randolph. Five were missing, the four which had been found by Dr. James and No. 18 of the following laws.

Previous to this discovery, but unknown to me, other copies had come to light. The Ordinance of 1787 empowered the governor and judges to "adopt and publish" the laws. This may only mean to put into execution; but it is probable that such was not the interpretation of the governments of the Northwest and Indiana territories, since they made provision to have their laws printed soon after adoption. This was the best means of letting the public know what the law was. The governor and judges of Illinois followed the example of their predecessors. There was no printer at the time in the territory; but in July, 1808, Joseph Charless had established at St. Louis the "Missouri Gazette," which was rechristened the "Louisana Gazette" in the fall of 1809. This was the source of news for the inhabitants on the east bank of the river and the medium used by the governor and judges of Illinois to make public the laws, which they had adopted. Permission was also given to publish legal advertisements in a newspaper of the Louisiana Territory.[1] Publishing the laws in a newspaper of another territory had its inconveniences and evidently gave rise to the plea of ignorance of the law; for the elected legislature of 1815 felt it necessary to grant relief to those who, by breaking the law for the suppression of duelling, had become ineligible for office. since it "was never published in this territory, until the publication of the late revision of the laws of this territory, and many therefore remained ignorant of the law."[2]

The credit of finding these printed copies of the laws belongs to Judge W. L. Gross of Springfield, by whom copies were made for the Secretary of State's office. The files of the "Louisiana Gazette" in the office of the "St. Louis Republican" are not quite complete, and among the missing is the issue containing laws 34 and 35, so that these are reprinted from Dr. James' publication.

In this edition of the laws the clerk's copy for Randolph county has been followed and all variant readings of the printed copy have been noticed in the foot-notes or inserted in brackets in the text.[3] The punctuation and capitalization of the printed copy are more in accordance with modern standards; and since nothing can be gained by reproducing the peculiarities of the Randolph county clerk, the text has been modernized in these two particulars. The language and the orthography are unaltered. The order of the laws followed is strictly chronological, and does not agree with that of the printed copy and of the "Executive Register." The laws appeared in the "Louisiana Gazette" as follows:

1 See law No. 27.

2 *Laws of Illinois Territory. fourth session, 1815-16.* Reprinted 1898, p. 10.

3 Miss Mary Louise Dalton, Librarian of the Missouri Historical Society, made for me a very careful comparison of the two texts.

1810.

February 15, Nos. 1, 2, 5, 3, 4, 9.
February 22, Nos. 8, 6, 7.
March 1, Nos. 10, 12, 11.
March 8, Nos. 13, 14, 16, 17, 18.
March 15, No. 15.
April 5, Nos. 21, 22, 19, 20, 23, 22, (repeated).
April 12, No. 24.
May 10, No. 25
June 7, Nos. 26. 27.

1811.

April 11, Nos. 28, 29.
April 18, Nos. 31, 30.
July 11, No. 32.
August 1, No. 33.

These old laws have long since lost their legal value, but it is some satisfaction to the historian that at last the legislative records of the State are complete.

LAWS

— OF THE —

TERRITORY OF ILLINOIS—1809-1811.

ILLINOIS TERRITORY,[1]

13th June, 1809.

This day Ninian Edwards, Governor of the Illinois Territory, Alexander Stuart and Jesse B. Thomas, Judges in and over the Territory aforesaid, met at the home occupied by Mr. Thomas Cox in the town of Kaskaskia, and after mature deliberation, they hereby resolved as their opinion that the laws of Indiana Territory of a general nature and not local to that Territory are still in force in this Territory as they were previous to the first day of March last.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT *repealing certain laws and parts of laws.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That the laws and parts of laws hereinafter particularly enumerated and expressed be the same and are hereby repealed, to-wit:

The act to organize a court of chancery passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven.

So much of the third section of the act for the appointment of justices of the peace within the several counties of the Territory and prescribing their duties and powers therein, passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, as makes it the duty of the justices of the peace to punish assaults and batteries.

So much of the sixth section of the act regulating the admission and practice of attorneys and counsellors at law passed by the General Assembly of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, as prohibits the admission of attorneys and counsellors at law to practice in the courts in this Territory who are not residents thereof.

The third and fourth sections of the act in addition to an act entitled, "An act regulating the practice in the general court, courts of common pleas and for other purposes," passed by the General Assembly of the Indiana Territory on the twenty fifth day of October, eighteen hundred and seven.[2]

1 *Louisiana Gazette*, Feb. 15, 1810: "The following LAWS have been adopted by the Governor and Judges of the Illinois Territory."

2 "eighteen hundred and eight."

[And the sixth section of the act organizing courts of common pleas, passed by the General Assembly of the Indiana Territory on the seventeenth day of September. eighteen hundred and seven].

The foregoing is hereby declared to be a law of the Territory and to take effect and be in force from the date thereof.

In testimony whereof. we, Ninian Edwards. Governor, and Alexander Stuart. and Jesse B. Thomas, Judges, have hereunto signed our names at Kaskaskia. the sixteenth day of June. in the year of our Lord one thousand eight hundred and nine. and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT *concerning the courts of common pleas and county courts.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That all the jurisdiction over suits and process of a civil and criminal nature heretofore vested and exercised by the court of common pleas shall hereafter be vested in, [and] exercised and discharged by a judge of the general court.

Sec. 2. There shall be holden in each county two terms of the common pleas at which one of the judges of the general court (agreeably to arrangement between themselves) shall preside. The courts so to be holden[1] in the county of Randolph shall be holden in the town of Kaskaskia on the second Mondays in April and September, in each year, and shall continue until the business of the court is finished. The court to be holden in the county of St. Clair shall be held in the town of Cahokia on the fourth Mondays in April and September, in each year, and shall continue until the business of the court is finished.

Sec. 3. *And be it* [*further*] *enacted by the authority aforesaid:* That the justices of the peace for the respective counties, or any three or more of them, shall be and they are hereby constituted a county court who shall have, possess and exercise all jurisdiction (except over suits and process of a civil and criminal nature) that has hitherto been possessed and excerised by the court of common pleas, and the said county court shall hold six terms in each year in their respective counties at the same place, at which the court of common pleas are by this act required to be holden, and at the times heretofore prescribed by an act, entitled, "An act organizing courts of common pleas," passed by the Legislature of the Indiana Territory on the seventeenth day of September, in the year eighteen hundred and seven.

Sec. 4. *Be it* [*further*] *enacted by the authority aforesaid:* That so much of any law as requires the appointment of three judges to the court of common pleas and all other laws and[2] parts of laws repungent to this act or within the perview thereof shall and the same is hereby repealed.

1 "The court to be holden"
2 "or parts of law or laws"

The foregoing is hereby declared to be a law of the Territory, and to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the sixteenth day of June, in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT *to regulate the time of holding the general court.*

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:[1] That the general court shall be held two terms yearly, and every year in the town of Kaskaskia, to commence on the last Mondays in March and August, and to continue until the business is finished.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the sixteenth day of June in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT *in addition to an act, entitled, "An act repealing certain laws and parts of laws."*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That the second section of a law, entitled, "An act regulating the general court," passed by the General Assembly or Legislature of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, and also an act, entitled, "An act to prevent unnecessary delays in causes after issue joined," passed by the Legislature of the Indiana Territory on the seventeenth day of September, eighteen hundred and seven, be and the same are hereby repealed.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the nineteenth day of June, in the year of our Lord eighteen hundred and nine, and of the Independence of the United States the thirty-third.

NINIAN EDWARDS,
ALEXR. STUART,
JESSE B. THOMAS.

AN ACT *concerning the general court.*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That there shall annually be held four terms of the general court, two of

1 "aforesaid" instead of "of the same."

which shall be held in the town of Kaskaskia, in the county of Randolph, on the second Mondays of April and September, and two shall be held in Cahokia, in the county of St. Clair, on the fourth Mondays in April and September.

SEC. 2. The general court shall have jurisdiction, both original and final, over all suits and process of a civil and criminal nature, that was heretofore vested in, and exercised by the general court, the circuit courts and the courts of common pleas under any law or laws of the Legislature of the Indiana Territory, except in cases of appeal from the judgment of a justice of the peace where the sum does not amount to twenty dollars, exclusive of costs.[1]

SEC. 3. All suits and process of a civil and criminal nature shall be tried and determined in the county in which such suit or process originated.

SEC. 4. For the convenience of the citizens of this Territory it shall be the duty of the clerk of the general court to keep one branch of his office at Kaskaskia and the other at Cahokia. All the business that pertains to the duty of clerk which may originate in the county of Randolph shall be transacted and confined to the office at Kaskaskia, and all the business that pertains to the duty of clerk which may originate in the county of St. Clair shall be transacted in and confined to the office at Cahokia.

SEC. 5 It shall be the duty of the clerk of the general court to superintend both branches of his office. He shall have power to appoint as many deputies as he may find necessary and shall be answerable for their misconduct; and all such deputies shall take a similar oath to that prescribed for the clerk.

SEC. 6. And whereas, there are many suits now depending, which originated in the courts of common pleas, and of which the general court by this law has jurisdiction: *Be it enacted by the authority aforesaid:* That the clerk of the general court shall promptly and without delay demand all the papers, exhibits, etc., in each of such suits of the clerks of the respective courts of common pleas, and it shall be their duty to deliver the same accordingly; and when the papers are thus delivered it shall be the duty of the clerk of the general court immediately so to arrange such causes on the docket as that they may come on for trial with the utmost dispatch and in the same order that they ought to have stood in the court of common pleas, had not this law been passed.

SEC. 7. *Be it further enacted:* That all process which has heretofore issued, returnable to the courts of common pleas or general court, shall be considered as properly returnable to the first sessions of the general court in the counties in which such process respectively issued, and all bails, recognizances and every kind of business, which may have been transacted under the existing laws that would

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1 The printed copy is very faulty, thus: "in each of such suits of the clerks of the respective courts of common pleas, and it shall be their duty of the clerk of the general court immediately, so to arrange, etc."

have been obligatory in the courts of common pleas or general court, shall be obligatory and cognizable in like manner in the general court, as regulated by this act.

SEC. 8. The sheriff of Randolph county shall attend the general court at its terms in Kaskaskia, and shall execute all process and perform all those duties that belong to his office that may originate in the county of Randolph; and the sheriff of St. Clair county shall attend the general court at its terms in Cahokia, and shall execute all process and perform all those duties that belong to his office that may originate in the county of St. Clair.

SEC. 9. The clerks of the respective courts of common pleas shall, when thereto required, deliver to the clerk of the general court all other papers, records, etc., belonging to their respective offices, which, when delivered, shall by the clerk of the general court be kept separate and apart from the papers belonging to suits now depending in the said courts of common pleas.

SEC. 10. *Be it further enacted by the authority aforesaid:* That the first and second sections of a law passed on the sixteenth day of June, eighteen hundred and nine, entitled, "An act concerning courts of common pleas and county courts," and all other laws and parts of laws repugnant to this law, shall be, and the same are, hereby repealed.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART;
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, signed, attest,
WILLIAM ARUNDEL, Clerk.

A LAW *respecting arrearages due the former sheriff.*

Whereas it is represented to this Legislature that the late sheriff of the county of Randolph has neglected to collect all the county levies in the said county and that several arrearages are now due to him.

Be it therefore enacted: That James Gilbreath, late sheriff of the said county of Randolph, shall at the next county court to be held[1] for the said county deliver and produce on oath to the said court a full, just and true account of all the sums which he has collected, or ought to have collected, for the use of the said county, noting therein the names of delinquents and the sums respectively due; and he shall also at the same time deliver on oath a true and perfect account of all monies by him paid for the use of the said county, stating therein the amounts paid to whom and by what authority,

1 "holden" for "held."

and produce to the said court his original vouchers and receipts therefore. And the said county court on the said sheriffs performing the requisits by this act directed shall thereupon give him a warrant under their hands and seals, authorising him to receive the amount of the said arrearages, and all fees due to him at any time within six months from the date thereof, by virtue whereof the said late sheriff shall have the same power to collect the said arrearages in the same manner he might have done under the laws of the Territory, if he had proceeded to collect the same in the time required by law.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *concerning county courts.*

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That;

SEC. 1. The county courts for the county of Randolph shall be held in the town of Kaskaskia, and the county court for the county of St. Clair shall be held in the town of Cahokia.

SEC. 2. *Be it further enacted:* That the county courts shall have jurisdiction (in the several counties) of appeals from judgments of justices of the peace where the judgment shall not exceed twenty dollars besides costs.

SEC. 3. *Be it further enacted:* That the county courts shall sit six days at each term, if the business before the court shall require it.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

A LAW *to repeal an act entitled, "A law to alter and repeal certain parts of an act, entitled, 'A law to regulate county levies,'" and to enforce the collection of the county levies for the year eighteen hundred and nine.*

Sec. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:*

That the act passed by the Indiana Legislature, entitled, "An act to alter and repeal certain parts of an act, entitled, 'A law to regulate county levies,'" shall be and the same is hereby repealed.

SEC. 2. And whereas provision ought to be made by law for the collection of county levies for the present year; *Be it therefore enacted:* That the sheriffs of the several counties in this Territory shall immediately proceed to receive the lists of all and every species of property made chargeable with taxes by this act and by the law of the Territory, entitled, "A law to regulate the county levies," in the manner required by said law, and that the said sheriffs shall make out and deliver such lists to the clerks of their respective county courts on, or before, the eighteenth day of September next; and the said clerks shall make out a true transcript thereof, which they shall lay before their next succeeding county courts respectively, for their examination and allowances, who shall have all the powers to levy a tax upon their respective counties, which has been heretofore vested in the court of common pleas; and it shall be the duty of the sheriffs of the respective counties to proceed to the collection thereof within the times prescribed by law.

SEC. 3. *Be it further enacted:* That so much of the eleventh section of the said law as requires the courts of common pleas to appoint two free holders in each township to value and appraise such house [in town], town lot, town out-lot and mansion house in the county, and all water and windmills shall be and the same is hereby repealed; and that the sheriffs of the respective counties shall proceed to appraise and value the same in the same manner, as the said freeholders were by the said law required to do; and the said county courts, at the time when they are by this law required to lay the county tax, shall levy a sum not exceeding thirty cents on each hundred dollars of such appraised valuation.

SEC. 4. *Be it further enacted:* That so much of the thirteenth section of the said law, as authorises sheriffs of the several counties to issue certificates to sell merchandize, shall be and the same is hereby repealed; and that from henceforth every possessor of merchandize shall, previously to offering the same for sale by himself or agent, pay to the sheriff as treasurer the sum of fifteen dollars for the use of the county and take his receipt therefor, which he shall take to the clerk of the county court who shall thereupon file the same and deliver to the person producing the same a certificate in the form prescribed by the said law, altering it, howsoever, so far as to mention that the tax for such certificate had been paid to the sheriff, as it appeared by his receipt delivered to the said clerk; and the said sheriffs and clerks shall keep separate accounts of the monies received and certificates issued, noting therein the dates when paid and issued and to whom, which accounts they shall deliver and produce to the county courts, when required.

SEC. 5. The sheriffs shall settle their accounts annually with their county courts at the times heretofore appointed by law; and at the time of such settlement it shall be their duty respectively to make a fair statement of all the money by them received, from whom, and on

what account, and a like statement of the money by them expended, by virtue of any law or order of the court, which written statement, after settlement with the court, shall be recorded. *Be it therefore [further] enacted by the authority aforesaid:* That such settlement or settlements shall not be a bar to a recovery thereafter against any sheriff, or sheriffs, where it shall clearly appear that he or they have been guilty of fraud or error in such settlement.

SEC. 6. The county courts in each county respectively shall at the same time, at which they are by this law required to levy the tax upon other objects of taxation, levy a tax on located lands not exceeding ten cents in the hundred dollars valuation, as made in conformity to a law of the Indiana Territory for the collection of the territorial taxes, which said tax shall be collected by the said sheriffs respectively at the same time, they are by this law required to collect the other county taxes; and the said sheriffs shall have the same powers to dispose of the whole, or so much of the said land, as shall, in default of payment, be sufficient to pay the said taxes and cost in the same manner as he is authorised to do so by the law of the Indiana Territory for the collection of the territorial tax: *Provided*, that the whole of the tax collected under this section shall be applied exclusively to county buildings.

SEC. 7. The sheriffs shall be allowed, in full compensation for their various duties under this law and the said law to regulate county levies, ten per cent upon all sums by them collected and paid.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our name, at Kaskaskia, the twentieth day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

A LAW *to prevent frauds and perjuries. Adopted from the Kentucky Code.*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That no action shall be brought whereby to charge any executor or administrator, upon any special promise, to answer any debt or damages [out] of his own estate, or whereby to charge the defendants upon any special promise to answer for the debt, default or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or the making any lease for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making

thereof, unless the promise or agreement, upon which such action shall be brought, or some memorandum or note thereon, shall be in writing and signed by the party to be charged therewith or some other person by him thereunto lawfully authorised.

SEC. 2. Every gift, grant or conveyance of lands, tenements or hereditaments, goods or chattels, or of any rent, common or profit of the same, by writing or otherwise, and every bond, suit, judgment or execution had, or made and contrived of malice, fraud, covin, collusion or guile to the intent or purpose to delay, hinder or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements or hereditaments, or any rent, profit or commodity out of them, shall be from thenceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, executors, administrators or assigns, and every of them, whose debts, suits, demands, estates and interest by such guileful and covinous devices and practices as aforesaid shall or might be in anywise disturbed, hindered, delayed or defrauded) to be clearly and utterly void; any pretence, color, feigned consideration, expressing of use or any other matter or thing to the contrary notwithstanding; and, moreover, if a conveyance be of goods and chattels and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this act; unless the same be by will duly proved and recorded; or by deed in writing, acknowledged or proved, if the same deeds include lands also, in such manner as conveyances of land are by law directed to be acknowledged, or proved; or if it be of goods and chattels only, then acknowledged or proved by two witnesses in any court of record in the county, wherein one of the parties lives, within eight months after the execution thereof; or unless possession shall really and *bona fide* remain with the donee; and in like manner where any loan of goods and chattels shall pretended to have been made to any person, with whom, or those claiming under him, possession shall have remained by the space of five years, without demand made or pursued by due process of law, on the part of the pretended lender; or where any reservation or limitation shall be pretended to have been made of an use or property by way of condition, reversion, remainder or otherwise in goods and chattels, the possession whereof shall have remained in another as aforesaid; the same shall be taken as to the creditors and purchasers of the persons aforesaid so remaining in possession to be fraudulent within this act, and that the absolute property is with the possession, unless such loan, reservation or limitation of use or property were declared by will or deed in writing proved and recorded as aforesaid.

SEC. 3. This act shall not extend to any estate or interest in any lands, goods or chattels or any rents, common or profit out of the same, which be upon good consideration and *bona fide* law fully conveyed or assured to any person or persons, bodies politic or corporate.

The foregoing is hereby declared to be a law of the Territory, to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto set our names, at Kaskaskia, the twenty-first day of July in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *concerning certain fees in the general court.*

Sec. 1. *Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same:* That all suitors and others having business to do in the general court shall pay the same fees (for the use of the territorial government) as have heretofore been paid by suitors and others for the like services performed by the courts of common pleas and applied to the use of their respective counties.

Sec. 2. *And be it further enacted by the authority aforesaid:* That the offices of government shall have the same power to collect such fees, as hath heretofore been authorised by law, for the recovery and collection of the like fees, imposed by the courts of common pleas for [the use of] their counties respectively, and the officer receiving the same shall be liable to be proceeded against as in other cases of the like nature.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto set our names, the twenty-first day of July in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *appropriating fines, amerciaments, penalties, forfeitures and taxes imposed on law process to the use of the territorial government.*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That all taxes imposed by law process, and all fines, amerciaments, forfeitures and penalties imposed or recorded in the general court shall constitute a fund to defray the expenses of the territorial government.

SEC. 2. That the sheriff of each county shall settle their accounts with the general court at the spring term annually, in the same manner and subject to their same conditions as is prescribed by law for the settlement of their accounts by the county court.

SEC. 3 *Be it further enacted:* That the governor and Judges, or a majority of them, shall have power to draw warrants to defray expenses incurred by the territorial government, whether they be legal

or contingent, upon any person or persons having in his or their possession any money by this act appropriated to the use of the Territory.

The foregoing is hereby declared to be a law of the Territory to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-first day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *to authorise the guarding of county jails. Adopted from the Kentucky code.*

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That if for want of a sufficient jail in any county in which a general court is held, it shall [be] necessary to impress or hire guards for the safe-keeping of any prisoner in the said jail, the general court, or a judge thereof in vacation, shall have full power and authority to order the jailor to impress or hire such guards, and the said court shall certify to the court the amount of the allowance to the said guard, which it shall be the duty of the justices of the said county court to order to be paid out of the county levy.

SEC. 2. To prevent doubts what shall be taken to be a sufficient jail: *Be it further enacted by the authority aforesaid:* That, when the judges of the general court shall receive a county jail for the county and cause the same to be entered on their record, the county thereafter shall be no longer chargeable for the expense of the guards.

The foregoing is hereby declared to be a law of the Territory and to take effect and be in force from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Stuart, Judges, have hereunto signed their names, at Kaskaskia, the twenty-second day of July, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART.
OBADIAH JONES.
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

A LAW *giving the sheriff of the county of Randolph further time to make out and deliver a list of persons and property liable to taxation in the said county for the year eighteen hundred and nine and to give him further time for the collection thereof.*

Whereas the time given to the sheriff of the county of Randolph by a law entitled, "A law to levy, assess and collect the county rates and levies for the year eighteen hundred and nine," has been found too short. For remedy whereof:

SEC. 1. *Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:* That the sheriff of the said county of Randolph shall have further time until the twenty-fifth day of this instant December to make out and deliver to the clerk of the county court of the said county complete lists and vouchers of persons and property liable to taxation in the said county for the year, eighteen hundred and nine; which lists the clerk of the said court shall file in his office, and make a transcript thereof on, or before, the fourth day of January next and deliver the same to the justices of the county court (who shall meet together on that day at the court-house in Kaskaskia) for their examination and allowance. The bill of tax, being allowed by the said court, they shall thereto annex their warrant under the hand and seal of the presiding justice; and the clerk of the said court shall, five days thereafter, deliver the same to the sheriff for collection; and the said sheriff shall on, or before, the tenth day of March next collect the amount of the tax so laid.

SEC. 2. *And be it further enacted:* That the said sheriff shall proceed in the collection of the said taxes, and shall have the same power and authority to enforce the payment thereof as are provided by law.

This act shall be in force from the passage thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-second day of December, in the year of our Lord one thousand eight hundred and nine, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *concerning appeals from the judgment of justices of the peace to the county courts. Adopted from the Kentucky Code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

SEC. 1. All judgments given by any such justice or justices, when the amount thereof shall not exceed four dollars sixteen cents and two-thirds of a cent, shall be final. In all judgments, where the amount thereof shall exceed four dollars sixteen cents and two-thirds of a cent, the party against whom such judgment shall be given shall have a right to appeal from the same to the next county court to be held for the county, wherein the judgment was rendered: *Provided*, there be ten days between granting the judgment from which the appeal is made and the sitting of the court. Whereupon the justice or justices, who gave such judgment, shall suspend all further proceedings thereon, and shall return the papers and the judgment he had given to the clerk of the said court; and the said court shall thereupon, at their next session, hear and determine the same in a summary way, without pleading in writing, according to the justice of the case; unless the said court, for good cause to them shown,

shall continue the same to the next court, beyond which second court such appeal upon no pretense shall be continued, and execution may be taken out on a judgment given by said court on such appeal in the same manner as if the cause had been originally instituted in the said court; and in all cases when any party may desire to appeal from judgment of a justice pursuant to this act, he shall receive from the justice a copy of such judgment, and produce the same to the clerk of the county court, who shall enter into a bond in the office of such clerk in a penalty double the sum of such judgment with security, who shall be approved of by the justice from whose judgment the appeal is made. Such bond shall be conditioned for the payment of the debt and costs in case the judgment shall be confirmed on the trial of the appeal. Upon the execution of such bond, the clerk shall certify the same to the magistrate and constable, enjoining further proceedings, and issue a summons to the appellee to appear at the court to which the appeal is returned, noting the day the same shall be set for trial by the clerk. The constable shall summon the appellee, his agent or attorney, if within the county, which summons shall be executed ten days before the court wherein the same shall be tried.

SEC. 2. Where the appellee shall reside in another county, the clerk of the court, to which the appeal is made, shall have power and authority to issue a summons to cause such appellee to appear before the court; which summons shall be executed by the appellant, or some other person for him on the appellee, and satisfactory proof of the service shall be made to the court to which the summons shall be returned; and if the appellant shall neglect to execute or cause to be executed such summons on the appellee, before the second court after praying an appeal, the judgment of the justice shall stand confirmed.

SEC. 3. It shall be the duty of the justice, who gave the judgment, to lodge with the clerk at, or before, the next court any papers produced and read on the trial before him; and if no papers, to certify the same to the clerk noting therein all the costs. The clerk shall docket the same in order. The court shall proceed and determine the appeal in a summary way at their next court and give such judgment as to them shall seem just with respect to the costs as well as the debt; but may grant a continuance, if they deem it right, to the next term but not longer; and in all appeals from the judgment of a single justice, the parties shall have the benefit of all legal testimony that can be produced.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
ALEXR. STUART,
OBADIAH JONES,
JESSE B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

AN ACT *concerning the clerks of the county courts.*

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That all duties hitherto required by law to be performed by the clerks of the courts of common pleas, shall be performed by the clerks of the county courts, except those which necessarily belong to the clerk of the general court by virtue of the duties which are assigned to him, any law to the contrary notwithstanding.

The foregoing is hereby declared to be a law of the Territory and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

AN ACT *repealing part of a law, entitled, "A law for the prevention of vice and immorality."*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of the act, entitled, "An act for the prevention of vice and immorality," as requires the same to be executed by the judges of the supreme or general court, except when the same may come before them when sitting as a court, shall be, and the same is, hereby repealed.

The foregoing is hereby declared to be a law of the Territory and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Obadiah Jones and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States, the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

[AN ACT] *concerning fornication and adultey. Adopted from the Georgia code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

Whereas it is highly injurious in civilized society, that man or woman should live in adultery or fornication together,

Be it enacted: That from and after the passing of this act, that any man or woman who shall live together in like manner, it shall be the duty of any of the neighboring justices, if within their knowledge, or upon information to them on oath, that such man and woman do

live in adultery or fornication, shall thereupon cause the said man and woman to be brought before them, or either of them; whose duty it shall be to bind them over to appear at the next superior court; and the attorney or solicitor general shall then and there prefer a bill of indictment against both the man and the woman, and on conviction thereof, they shall pay for the first offence a sum not exceeding forty eight dollars; and for the second offence a sum not exceeding one hundred and twenty dollars; and for the third offence a sum not exceeding three hundred and sixty dollars; and stand commuted to jail, until all, and every of the several sums imposed as aforesaid, shall be paid, or continue therein not exceeding twelve months.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-sixth day of January, in the year of our Lord, one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS.
ALEXR. STUART,
OBADIAH JONES.

AN ACT *regulating the manner of taking depositions. Adopted from the Georgia code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That where any witness resides out of the Territory, or out of any county in which his testimony may be required in any cause, it shall be lawful for either party, on giving at least ten day's notice to the adverse party, or his, her or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from clerk of the court in which the same may be required, directed to certain commissioners to examine all and every such witness on such interrogatories as the parties may exhibit; and such examination shall be read at the trial, on motion of either party.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the first day of May next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *prescribing the duty of sheriffs in a certain case. Adopted from the Georgia code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That where any sheriff shall levy an execution on property claimed by any person not a party to such execution, such person shall make oath to such property; and it shall be the duty of the sheriff to postpone the sale or future execution of the judgment, until the next term of the court from whence the execution issued; and such court shall cause the right of property to be decided on by a jury at the same term; unless special cause be shewn to induce the court to continue the same for one term and no longer: *Provided*, the person claiming such property, or his attorney, shall give bond to the sheriff with security in a sum equal to the amount of the execution, conditioned to pay the plaintiff all damages, which the jury on the trial of the right of property may assess against him, in case it should appear that such claim was made for the purpose of delay. And every juror on the trial of such claim shall be sworn, in addition to the oath usually administered, to give such damages, not less than ten per cent, as may seem reasonable and just, to the plaintiff against the claimant, in case it shall be sufficiently shewn that such claim was intended for delay only. And it shall be lawful for such jury to give a verdict in manner aforesaid, by virtue whereof judgment may be entered up and execution issued against such claimant, and, *Provided also*, the burthen of the proof shall lay on the plaintiff in execution.

The foregoing is hereby declared to be a law of this Territory and to take effect from the first day of May next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *to repeal part of an act of the General Assembly of the Indiana Territory passed the seventeenth day of September, in the year one thousand eight hundred and seven, entitled, "An act respecting crimes and punishments."*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That from, and after, the first day of May next, so much of the act of the Indiana Legislature entitled, "An act respecting crimes and punishments," as relates to burglary, robbery and perjury, shall be and the same is hereby repealed.

Be it further enacted: That from, and after, the first day of May next, so much of the before recited act, as prescribes any limitation of the time, in which prosecutions for forgery, perjury or any felony, shall be commenced, shall be and the same is hereby repealed.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *repealing part of an act entitled, "An act concerning appeals from the judgment of justices of the peace to the county courts."*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of the said act as authorises the county court to decide on appeals from the judgment of justices of the peace for any sum exceeding twenty dollars, exclusive of costs, is hereby repealed.

This act to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

A LAW *concerning grand jurors. Adopted from the Kentucky Code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] the sheriff of each county, where a superior court of criminal jurisdiction is appointed to be holden, shall before every meeting of such court summon twenty-four of the most discreet housekeepers, residing within the limits of the jurisdiction of the said court, to appear at the succeeding court, on the first day thereof; and the said twenty-four housekeepers, or any sixteen of them, shall be a grand jury, who shall be sworn to enquire of and present all treasons, felonies, murders and other misdemeanors whatsoever, which shall have been committed or done within the limits of the jurisdiction of the said court. And if a sufficient number of the said housekeepers shall not attend on the first day of the court, the sheriff shall summon from the by-standing housekeepers of the description aforesaid a sufficient number, together with those attending, to make a jury.

The foregoing is hereby declared to be a law of the Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas, Alexander Stuart and Obadiah Jones, Judges, have hereunto signed our names, at Kaskaskia, this third day of March, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR STUART,
OBADIAH JONES.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

AN ACT *to prevent unlawful gaming. Adopted from the Virginia Code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same:

SEC. 1. That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn or entered into or executed by any person or persons whatsoever, after passing this act, where the whole, or any part, of the consideration of such promise, agreement, conveyances or securities shall be for money or other valable thing whatsoever, won, laid or betted at cards, dice, tables, tennis, bowles or any other game or games whatsoever, or at any horse race, cock fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money, knowingly lent or advanced at the time and place of such play, horse racing, cock fighting, or other sport or pastime, to any person or persons so gaming, betting, or waging, or that shall at such time and place, so play, bet or wager, shall be utterly void and of none effect, to all intents and purposes whatsoever; any law, custom or usage to the contrary thereof in anywise notwithsranding.

SEC. 2. Any conveyance, or lease of lands, tenements or hereditaments, sold, demised or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use to satisfy or secure money, or other thing by him won of, or lent or advanced to the seller, lessor or mortgagor, or whereof money or other thing so won, or lent or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor or vender, and shall vest the whole estate and interest of such person in the lands, tenements or hereditaments so leased, mortgaged, bargained or sold, and in the slaves, or other personal estate, so sold, mortgaged or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor or vender, as if such lessor, bargainor, mortgagor or vender had died intestate.

SEC. 3. If any person, or persons, whatsoever at any time hereafter within the space of twenty-four hours by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one, or more person or persons, so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part

thereof, the person, or persons, so losing, and paying or delivering the same shall be at liberty within three months then next following to sue for and recover the money or goods so lost, and paid or delivered, or any part thereof, from the respective winner or winners thereof with costs of suit, by action of debt founded on this act, to be prosecuted in any court of record in this Territory, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the plaintiff to allege that the defendant is indebted to the plaintiff, or received to the plaintiff's use, the money so lost, and paid or converted the goods won of the plaintiffs to the defendants use, whereby the plaintiff's accrued to him according to the form of this act, without setting forth the special matter; and in case the party losing such money, or other thing, as aforesaid, shall not within the time aforesaid, really and *bona fide*, without covin or collusion, sue and with effect prosecute for the money, or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person, or persons, by any such action or suit as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner, or winners, as aforesaid, the one moiety thereof to the use of the person, or persons, sueing for the same and the other moiety to the use of the Territory.

SEC. 4. *Provided, always*, that upon discovery and repayment of the money, or other thing, so to be discovered and repayed as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified and discharged from any further or other forfeiture, punishment or penalty, which he or they may have incurred by the playing for, or winning, such money or other thing so discovered and repaid.

SEC. 5. And to prevent gaming at ordinaries and other public places, which must be often attended with quarrels, disputes and controversies, the impoverishment of many people and their families, and the ruin of health, and corruption of the manners of youth, who upon such occasion frequently fall in company with lew'd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming; *Be it further enacted:* that if any person or persons shall at any time play in an ordinary, race field or any other public place, at any game or games whatsoever, except billiards, bowles, back gammon, chess or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof before any justice of the peace in any county within this Territory by the oath of one or more credible witness or witnesses, (which oath the said justice is hereby empowered to administer) or by the view of such justice, or the confession of the party accused, shall forfeit and pay twenty dollars to be levied by distress and sale of the offender's goods, by warrant under the hand of the justice, before whom such conviction shall be, and for the use of the county wherein such offence shall be committed; and moreover, every person so convicted shall be committed to the county jail, there to remain until he, she or they give sufficient security for his, her or their good behaviour for twelve months next after such conviction.

SEC. 6. If any person by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or anything of greater value, than twenty dollars, the loser and winner shall be liable to pay one-half of the entire sum above the said sum of twenty dollars, which he shall so win or lose; and upon information thereof made to the general court and due proof thereof had, such general court shall levy upon the goods and chattels of the offenders the full penalty incurred, which shall be applied to the use of the Territory.

SEC. 7. And whereas, divers lew'd and dissolute persons live at great expenses, having no visible estate, profession or calling to support them, but by gaming only; *Be it therefore enacted:* that it shall be lawful for any two justices of the peace in any county to cause to come, or be brought, before them every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such justices that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months; and on refusal thereof shall commit him to the common jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same.

Sec. 8. *And be it further enacted:* that if any person, or persons, whatsoever, do or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device or evil practice whatsoever, in playing at, or with, cards, dice, or any other game or games, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do, or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things, whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment or information, shall forfeit five times the value of the money, or other things, so won, and suffer such corporal punishment as in cases of wilful purjury; and such penalty shall be recoverable with costs by any person, or persons, suing for the same by action of debt in any court of record in this Territory having cognizance thereof.

Sec. 9. *Provided always*, that any person agrieved by the judgment of any justice of the peace upon any conviction for any of the offences in this act cognizable before him, may appeal to the next general court to be held for the county, where such person shall be convicted; but shall give reasonable notice of such appeal to the party, prosecuting him or her, and shall also enter into recognizance with two sufficient securities before some justice of the county, wherein the judgment was given on condition to try such appeal at the next general court held for said county after entering such appeal

which shall be by the said court then heard and finally determined: *Provided*, that no such judgment shall be set aside for want of form, wherein it shall appear to the court that the facts were ssufficiently proved at the trial.

Sec. 10. All and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A, B. C or E O tables or of a farro bank, or any other gaming table, or bank of the same or the like kind, under any denomination whatever, shall be deemed and treated as vagrants; and moreover, it shall and may be lawful for any justice of the peace by warrant under his hand to order any such gaming table to be seized and publicly burnt or destroyed.

Sec. 11. No person in order to raise money for himself or another shall publicly or privately put up a lottery of blanks and prizes to be drawn or adventured for, or any prize or thing to be raffled or played for, and whoever shall offend herein shall forfeit the whole sum of money proposed to be raised by such lottery, raffling, or playing to the use of the Territory.

Sec 12. That all monies exhibited for the purpose of alluring persons to bet against, at any game, and all moneys actually staked or betted whatsoever, shall be liable to seizure by any magistrate or magistrates, or by any other person or persons under a warrant from a magistrate, wheresoever the same may be found; and all such monies so seized shall be accounted for and paid by the person, or persons, making the seizure to the court of the county, wherein the seizure shall be made, and applied by the court in aid of the levies, deducting thereout fifty *per centum* upon all monies so seized to be paid to the person, or persons, making the said seizure.

Sec. 13. Any person whatsoever, who shall suffer any of the games played at the tables commonly called A. B. C. or E O or farro bank, or any other gaming table or bank of the same or the like kind, under any denomination whatever, to be played in his or her house or in a house, of which he or her hath at the time the use or possession, shall for every such offence forfeit and pay the sum of one hundred and fifty dollars to be recovered in any court of record by any person who will sue for the same.

Sec. 14. Whenever a judgment shall be obtained for any fine incurred by a breach of any law for preventing gaming, twenty dollars shall be taxed in the bill of costs for a lawyer's fee.

Sec. 15. Any person, or persons, who shall oppose the seizure of such monies as above described by any person, or persons, so authorised to make it, shall be liable to a penalty of fifteen hundred dollars, to be recovered in any court of record for the use of the Territory, and shall be moreover liable to the action of any party grieved by such opposition; and any person or persons, who shall take or carry away any part of the said money after the said seizure, shall be declared, shall be guilty of a misdemeanor.

Sec. 16. That every fine for forfeiture and penalty, imposed, declared, inflicted or incurred, or which may be imposed, declared, inflicted or incurred, for the use of the Territory, under any act, or part or parts of any act, heretofore made, for the prevention or discourage-

ment of any kind of unlawful gaming or for the suppression thereof, shall and may be recovered in the general court in this Territory upon presentment or indictment by a grand jury, or upon information filed by the attorney general in said court, or by action of debt, bill, plaint, or any other legal ways or means whatsoever; and in every such case no exception shall be admitted or sustained for any defect or want of form, in any presentment, indictment, information, or other suit or action whatsoever, which may be brought or instituted on behalf of the Territory, or of any person, or persons, entitled to sue for the same, either on his own behalf, or on behalf of such person or the Territory; but the court, before whom any such presentment, indictment, information, suit or action shall be brought, shall proceed to give judgment according to the very right of the case, any former law, custom or usage to the contrary notwithstanding.

Sec. 17. And for the prevention of unnecessary delays in the prosecution of offenders; *Be it further enacted:* That where any presentment or indictment authorised by this, or any other act, shall be made by a grand jury, the court, wherein the same shall be made, shall immediately order the proper process to bring the offender before them, returnable with all convenient expedition, which process may be directed to the sheriff, or other officer, of any county within this Territory, where the offender or offenders may be found, and such sheriff, or other officer, to whom the same shall be directed, is hereby empowered and required to execute the same, and make return thereof to the court from which it issued; and if the defendant, being duly summoned, shall fail to appear, and plead to such presentment or indictment immediately, the court shall forthwith proceed to give judgment against him in the same manner as if he had appeared and confessed the charge, or denying it, had been found guilty by the verdict of a jury, and may award execution against him accordingly; but if he shall appear and plead not guilty to the presentment or indictment, the court shall without delay proceed to the trial and render judgment according to the very right of the case, as herein before directed; and whereupon any rule to shew cause why an information should not be filed by the attorney for the Territory, the defendent shall fail to appear and shew cause, pursuant to the notice duly given him, or left at his usual place of abode, in every such case, if the information be thereafter filed, the court may on any day after the day of shewing cause, proceed to give judgment upon such information, in the same manner as upon presentment or indictment by a grand jury. *Provided, nevertheless*, that if the offender, against whom any judgment may be rendered, for want of his appearing to answer the presentment or indictment or to shew cause against the filing of the information, shall at any time during the same term, appear and surrender himself in custody, or give bail, being ruled so to do by the court, for his appearance when required and plead not guilty to the presentment, indictment or information, it shall be lawful for the court in every such case to set aside the judgment against him, and thereupon the court shall, without delay, proceed to the trial in the same manner, as

if he had appeared and pleaded there in the first instance; and shall render judgment thereupon according to the very right of the case without regard to any exception that may be alleged against it.

Sec. 18. Whenever judgment shall be rendered against any offender by virtue of this act, if he be not present, the court may award a *capias* for the fine, and also to bring the body of the offender before the court in order to be dealt with as the law directs; which *capias* may be directed to the sheriff, or other officer, of any county within this Territory, where the offender may be found, and such sheriff or other officer, to whom the same shall be directed, is hereby empowered and required to execute the same and make return thereof to the court from which it issued; and upon every such *capias*, the sheriff or other officer shall take good and sufficient bail in a sum not exceeding five hundred dollars, nor less than two hundred dollars, for the appearance of the defendant on the first day of the next court; and if he shall fail to take such bail, he shall forfeit a sum not exceeding five hundred dollars to the Territory; and if the defendant being bailed shall fail to appear accordingly, the bail bond shall be forfeited and shall immediately be put in suit, and the clerk shall endorse upon the writ that bail is required.

Sec. 19. And for the removing certain doubts, which have arisen, in the construction of some of the acts, or parts of acts, made for the preventing, discouraging and suppressing unlawful gaming; *Be it further enacted and declared:* That every house of entertainment, or public resort, within this Territory, whether the same be a licensed tavern or not, shall be deemed and taken to be a tavern, and the owner, master, keeper or occupier of every such house, shall be deemed a tavern keeper within the true intent and meaning of this act; and the owner, master, keeper or occupier of any tavern, licensed or unlicensed, shall moreover be deemed to be the owner, master, keeper and occupier of every house, out-house, booth, arbor, garden and other place within the curtilage of the principal house, tavern, messuage or tenement, or in any wise appurtenant thereto, or at any time held therewith, and every such house, out-house, booth, arbor, garden and other place shall be considered as part of the tavern, unless the same shall have been *bona fide* leased to some other person by deed, indented and recorded previous to the time of any offence against any act for preventing unlawful gaming, or for regulating ordinaries and restraint of tippling houses, committed therein for a term not less than twelve months from the day of the date of such lease and for a valuable consideration *bona fide* paid, or secured to be paid, and unless the lessor and his family shall *bona fide* dwell and board therein, and not elsewhere; and if any such lease or pretended lease be made or recorded, and the lessee shall not actually dwell and board himself and family in the house or premises so demised, or pretended to be demised; or if the lessee shall directly or indirectly board or diet himself elsewhere; every such lease or demise shall be taken to be fraudulent within this act, and both the lessor and lessee and his assigns shall be liable to the same pains, penalties, fines, forfeitures and judgments, as if he or they or either of them were tavern keepers, and occupiers of the premises so leased or demised, and judgment against the one, shall

be no bar or impediment to a prosecution, judgment and recovery against the other for any offence committed within the same, contrary to the true intent and meaning of this act, or of any other act or acts, or part of any act or acts, for preventing, discouraging or suppressing unlawful gaming.

SEC. 20. *And be it further enacted:* That every keeper or exhibitor of any of the tables commonly called A. B. C. or E. O. tables, or farro bank, or any other gaming table of the same or like kind under any denomination whatsoever, or whether the same be played with cards, or dice or in any other manner whatever, and every unlicensed tavern keeper, who shall suffer any unlawful gaming upon any part of the premises in his, or her, occupation, shall in addition to the penalties, which he might or may be subject to under any former law whatsoever, forfeit and pay one hundred dollars for every offence, which he or they may be guilty of, against the true intent and meaning of this act, or any former act for preventing, or discouraging or suppressing unlawful gaming, and shall be compelled to give security for his, or her, good behaviour in the sum of five hundred dollars or more in the discretion of the court. And if he shall thereafter be guilty of the same or like offence, it shall be deemed a forfeiture of of his recognizance, and he shall be imprisoned without bail or mainprize until the sum, in which he may be therein bound, shall be paid, or until he shall be discharged under the several acts for the relief of insolvent debtors.

SEC. 21. *And be it further enacted:* That the general court shall have the power of revoking the licenses of tavern keepers in any case of delinquency in permitting unlawful gaming in their houses or taverns.

SEC. 22. In every case that may arise under any law for the preventing, discouraging or suppressing of gaming, the court shall interpret them as remedial, and not as penal statutes.

And be it further enacted: That the judges of the general court are hereby empowered to execute this, and all other laws, for the purpose of suppressing gaming

The presiding judge shall constantly give this act in charge to the grand jury at the times when such grand jury shall be sworn.

The foregoing is hereby declared to be a law at this Territory, and to take effect from and after the seventh day of April next.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto signed our names, at Kaskaskia, this ninth day of March, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

AN ACT *repealing parts of certain acts.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That as much of the sixth section of an act, entitled, "An act regulating the

admission and practice of attornies and counsellors at law," passed by the General Assembly of the Indiana Territory on the seventeenth day of September, in the year eighteen hundred and seven, as prohibits the judges of any other Territory or State from practising law in this Territory;

And also the fourth section of an act, entitled, "An act concerning the introduction of negroes and mulattoes into the Territory," passed by the said General Assembly on the seventeenth day of September, in the year eighteen hundred and seven, be, and are, hereby repealed.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto set our hands, at Kaskaskia, the thirteenth day of March, in the year of our Lord eighteen hundred and ten, and of the Independence of the United States the thirty-fourth.

NINIAN EDWARDS,
JESSE B. THOMAS,
ALEXR. STUART.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

AN ACT *to suppress duelling. Adopted from the Virginia Code.*

WHEREAS, experience has evinced that the existing remedy for the suppression of the barbarous custom of duelling is inadequate to the purpose, and the progress and consequences of the evil have become so destructive as to require an effort on the part of the Legislature to arrest a vice, the result of ignorance and barbarism, justified neither by the precepts of morality nor by the dictates of reason, for remedy whereof:

Be it enacted by the Acting Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That any person who shall hereafter wilfully and maliciously, or by previous agreement, fight a duel or single combat with any engine, instrument or weapon, the probable consequence of which might be death of either party, and in so doing shall kill his antagonist, or any other person or persons, or inflict such as that the person injured shall die thereof within three months thereafter, such offender, his aiders, abettors and counsellors being thereof duly convicted, shall be guilty of murder and suffer death by being hanged by the neck, any law, custom or usage of this Territory to the contrary notwithstanding.

And be it further enacted: That if any person whatsoever shall challenge another to fight a duel with any weapon or in any manner whatsoever, the probable issue of which may, or might, result in the death of the challenger or challenged; or if any person shall accept a challenge, or fight a duel with any weapon, or in any way whatsoever, the probable issue of which may, or might, terminate in the death of the challenger or challenged, such person shall be incapable of holding, or being elected to, any post of profit, trust or emolument, civil or military, under the government of this Territory.

And be it [*further*] *enacted:* That from and after the passing of this act, every person, who shall be appointed to any office or place, civil or military, in this Territory, shall in addition to the oath now

prescribed by law, take the following oath: "I do solemnly swear, or affirm, (as the case may be) that I have not been engaged in a duel by sending or accepting a challenge to fight a duel, or by fighting a duel, or in any other manner in violation of the act, entitled, "An act to suppress duelling" (since the passage of that act), nor will I be so concerned directly or indirectly in such duel during my continuance in office, so help me God."

And be it further enacted: That it shall be the duty of the presiding judge of the general court at each session of the court to give in charge expressly to the jury this law, and also to charge the jury to present all persons concerned in carrying, sending or accepting a challenge.

And be it further enacted: That when any judge or magistrate of this Territory has good cause to suspect any person, or persons, are about to be engaged in a duel, he may issue his warrant to bring the parties before him; and if he shall think proper, to take of them a recognizance to keep the peace. He shall insert in the condition, that the party, or parties, shall not during the time for which they were bound, directly or indirectly be concerned in a duel, either with the person suspected or any other person, within the time limited by the recognizance.

And be it further enacted: That if any person, or persons, shall, for the purpose of eluding the operation of the provisions of this law, leave the Territory, the person, or persons, so offending shall be deemed as guilty and be subject to the like penalties as if the offence had been committed within this Territory. If any person shall leave this Territory with the intention of giving or receiving a challenge to fight a duel, or of aiding or abetting in giving or receiving such challenge, and a duel shall actually be fought, whereby the death of any person shall happen, and the person so leaving the Territory shall remain thereout, so as to prevent his apprehension for the purpose of a trial; or if any person shall fight a duel in this Territory, or aid or abet therein, whereby any person shall be killed, and then flee into another State or Territory to avoid his trial, in either case it shall be the duty of the Executive, and they are hereby directed to adopt and pursue all legal steps, to cause any such offender to be apprehended and brought to trial in the county where the offence was committed, when the duel shall have been fought within the Territory; and, when it shall have been fought without the Territory, then in that county where, in the opinion of the executive, the evidence against the offender can be best obtained and produced upon his trial.

And be it further enacted: That it shall be the duty of the attorney general of the Territory to give information to the executive, whenever a case shall arise, which shall render the interposition of the executive authority under this act necessary, and the deputies of the attorney general at the first court, which shall be held, in which they are to act as prosecuting attornies, after they have accepted their appointments, shall take the following oath: "I do solemnly

swear, or affirm, (as the case may be) that I will to the best of my judgment, execute the duty imposed on me by the act for suppressing duelling, so help me God."

And be it further enacted: That all words, which from their usual common construction and acceptation are considered as insults, and lead to violence and breach of the peace, shall hereafter be actionable; and no plea, exception or demurrer shall be sustained in any court within this Territory to preclude a jury from passing thereon, who are hereby declared to be the sole judges of the damage sustained: *Provided*, that nothing herein contained shall be construed to deprive the several courts of this Territory from granting new trials as heretofore.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly from the date thereof.

In testimony whereof, we, Nathaniel Pope, Secretary, now Acting Governor, and Jesse B. Thomas and Alexander Stuart, Judges, have hereunto signed our names, at Kaskaskia, the seventh day of April, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NAT. POPE,
J. B. THOMAS,
ALEXR. STUART.

A true copy, attest,
WILLIAM ARUNDEL, Clerk.

A LAW *concerning advertisements.*

WHEREAS, it is provided by several of the statute laws now in force in this territory, that advertisements should be inserted in some public newspaper published in the Territory for the time and in the manner therein required; and whereas, there is at this time no newspaper printed in this Territory:

Be it therefore enacted by the acting Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That in all cases, where by law it is required that advertisements should be inserted in some newspaper in the Territory, it shall and may be lawful for all and every person and persons concerned, or whose duty it shall be, to have the said advertisements inserted in some of the newspapers published in the Louisiana Territory, for the times and in the manner required by law, which shall have the same force and effect, as if inserted in a newspaper published in this Territory.

This act shall take effect from the passage thereof, and shall continue in force until a newspaper is established and published in this Territory and no longer.

In testimony whereof, we, Nathaniel Pope, Secretary, now Acting Governor, and Jesse B. Thomas and Alexander Stuart, Judges have hereunto signed our names, at Kaskaskia, the twenty-first day of May, in the year of our Lord one thousand eight hundred and ten, and of the Independence of the United States the thirty-fourth.

NAT. POPE,
ALEXR. STUART,
J. B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *repealing so much of the law of the regulating county levies as imposes a tax on neat cattle.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That so much of any law or laws as provided for laying any tax on neat cattle shall be and the same is hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In witness whereof, we, Ninian Edwards, Governor and Jesse B. Thomas and Stanley Griswold. Judges, have hereunto signed our names, at Kaskaskia, the tenth day of October, in the year of our Lord, one thousand eight hundred and ten, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
JESSE B. THOMAS,
STANLEY GRISWOLD.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN Act *concerning courts of common pleas*

Be it enacted by the Governor and Judges of the Illinois Territory and it is hereby enacted by the authority of the same: That the fourth section of an act entitled, "An act concerning courts of common pleas and county courts," passed by the Governor and Judges of the Territory aforesaid on the sixteenth day of June eighteen hundred and nine, repealing the law that required the appointment of three judges to the court of common pleas, shall be, and the same is, hereby repealed.

Sec. 2 *Be it further enacted by the authority aforesaid:* That the third section of the before recited act, whereby county courts to consist of justices of the peace are established, except so far as relates to the times of holding courts shall be, and the same is, hereby repealed.

Sec. 3. *Be it* [*further*] *enacted by the authority aforesaid:* That any law, or laws, which have heretofore been enacted by the Governor and Judges aforesaid, taking from the court of common pleas any jurisdiction, except over suits and prosecution of a civil and criminal nature, shall be, and the same are, hereby repealed: *Provided, nevertheless*, that nothing herein contained shall be construed to deprive the said courts of common pleas of jurisdiction over appeals from the judgments of justices of the peace, as they are now regulated by law, or to deprive them of any powers which the county courts possessed.

Sec. 4. *Be it further enacted by the authority aforesaid:* That so much of any law, as repeals the law allowing the judges of the courts of common pleas two dollars per day for their services, shall be, and the same is, hereby repealed.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names at Kaskaskia, this twenty-second day of January, eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

A true copy, attest,
WILLIAM ARUNDEL, *Clerk*

AN ACT *concerning the powers of the Governor of the Territory of Illinois. Adopted form the constitution of the State of Pennslyvania.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That the Governor of the Territory aforesaid shall have power to remit fines and forfeitures and grant reprieves and pardons, except in cases of impeachment.

The foregoing is declared to be a law of the Territory, and to have effect as such.

In testimony whereof, we, Ninian Edwards, Governor, ond Alexander Stuart and Jesse B. Thomas, Judges have hereunto subscribed our names, at Kaskaskia, in the Territory aforesaid on the twenty-third day of January, eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS,

A true copy, attest,
WILLIAM ARUNDEL, *Clerk.*

AN ACT *concerning occupying claimants of land. Adopted from the Kentucky code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That whereas, from the frequency of interfering claims to land and the unsettled state of the country, it often happens that titles lay a long time dormant and many persons deducing a fair title from the record, settle themselves on land supposing it to be their own, from which they may afterwards be evicted by a title paramount thereto; and it is just that the proprietor of the better title shall pay the occupying claimant of the land for all valuable improvements made thereon, and also that the occupying claimant shall satisfy the real owner of the same for all damages that may have been done to the land by the commission of waste or otherwise during the occupancy. Therefore:

Sec. 1. *Be it enacted by the authority aforesaid:* That all and every person, who may hereafter be evicted from any land, for which he can shew a plain and connected title in law or equity deduced from the record of some public office without actual notice of an adverse title in like manner derived from record, shall be exempt and free from all and every species of action, writ or prosecution for, or on account of, any rents or profits or damages, which shall have been done, accrued or incurred at any time prior to receipt of actual notice of the adverse claim by which the eviction may be effected: *Provided,* [that] such person obtained peacible possession of the land.

Sec. 2. *And be it further enacted:* That the court, who shall pronounce and give the judgment of eviction either in law or equity, shall at the time nominate seven fit persons, any five of whom shall have power; and it shall be their duty to go on the premises and, after viewing the same, on oath or affirmation to assess the value of all such lasting and valuable improvements, which shall have been made thereon prior to the receipt of such notice as aforesaid; and also to assess

all damages the land may have sustained by the commission of any kind of waste or by the reduction of soil by cultivation or otherwise during the occupancy of the person evicted, and then subtract the same from the estimated value of the said improvements; which assessment signed and sealed by the persons making the same shall be by them lodged with the clerk of the court, wherein they were nominated, before the next ensuing term or as soon thereafter as may be convenient; and at the next court after such assessment, it shall be entered up as a judgment in favor of the person evicted and against the successful claimant of the land, by the clerk. Upon which judgment, execution shall immediately be issued by the clerk, if directed by the person evicted; unless the successful claimant shall give bond and security, to be judged of by the court, to the person evicted, and to be taken at the time of entering up such judgment, conditioned to pay the some within twelve months from the date thereof with five per cent interest thereon, provided the balance shall ultimately be in favor of such occupying claimant, according to the directions and provisions of this act; which bond shall have the force of a judgment, and at the expiration of twelve months aforesaid an execution shall be issued upon the same by the clerk of the court, in which it was taken, at the request of the party entitled thereto, on oath being made that the same is yet due. Should the balance be in favor of the successful claimant, judgment in like manner shall be entered up in his favor against the other party for the amount of the same, upon which an execution may be issued as aforesaid, unless bond and security shall be given to such claimant, which may be acted upon in the manner before directed, and to declare what law shall be between the adverse claimants under distinct titles of the kinds aforesaid after notice.

Sec. 3. *Be it further enacted by the authority aforesaid*: That the persons nominated by the court as aforesaid, when making an assessment, shall carefully distinguish between such improvements as were made on the land prior to notice, and those which were made after notice; and when making an assessment they shall also take into consideration all such necessary and lasting improvements as shall have been made on the lands after the receipt of such notice as aforesaid, and shall ascertain the amount of the value thereof; and they shall also take into consideration and ascertain the amount of the value of the rents and profits arising from the whole of the improvements on the land from the time that notice of such adverse claim was received by the occupying claimant; and then after taking the amount of the one from the other, the balance shall be added to, or subtracted from, the amount of the value of the improvements, which shall have been made before the receipt of the notice aforesaid, as the nature of the case shall require.

Sec. 4. *Be it further enacted:* That the said commissioners shall also estimate the value of the lands in dispute exclusive of any improvements that shall have been made thereon, and make report of the amount of such valuation to the court; and if the value of the improvements shall exceed such estimated value of the land in dispute, in that case it shall, and may be, lawful for the proprietor of the better

title to transfer or convey, as the nature of the case may require, his better title to the occupying claimant, and thereupon a judgment shall be entered up in favor against the occupying claimant, for such estimated value, upon which an execution may issue; unless the occupying claimant shall give bond and security, to be approved of by the court, to pay the amount of such judgment within one year after the person transferring or conveying as aforesaid, with interest from the date, which bond shall have the force of a judgment; and if not paid at the expiration of the year, an execution may issue on the manner before directed by this act: *Provided, however*, that the proprietor of the better title shall, in every such case at the time of entering up judgment in his favor, give bond and security to be approved of by the court to the occupying claimant to refund the amount of such judgment in case the land so transferred or conveyed shall ever thereafter be taken from him by any other prior or better claim.

Sec. 5. *Be it further enacted:* That the persons, nominated by the court in virtue of this act, shall be called commissioners, and shall respectively take an oath or affirmation to do equal right to the parties in controversy, and shall also have power and authority to call witnesses, and administer the necessary oaths, and to examine them for the ascertainment of any fact material in the enquiry and assessment by this act directed.

Sec. 6. *And be be it further enacted:* That the said commissioners in making every estimate of value by virtue of this act shall state separately the result of each, and the court shall have power to make such allowance to the said commissioners in any case as shall seem just, which allowance shall be taxed and collected as costs: *Provided*, that this act shall not be extended to affect or impair the obligations of contracts or to authorise the occupying claimant to be twice paid for his improvements; and in all cases where the occupying claimant is paid for his improvements by any other person than the proprietor of the better title, such person shall have the same redress as is allowed to the occupying claimant.

Sec. 7. *And be it further enacted:* That the court shall have the same power to proceed by appointing commissioners to assess the value of the improvements and the damages by the commission of any kind [of] waste, by reduction of soil, by cultivation or otherwise during the occupancy of the person evicted in case of arbitration or by consent of the parties on motion without suit.

SEC. 8. *And be it further enacted:* That notice of any adverse claim, or title to the land, within the meaning of this act shall have been given by bringing a suit either in law or equity for the same by the one or the other parties, and may hereafter be given, by bringing a suit aforesaid or by delivering an attested copy of the entry, survey or patent from which he derives his title or claim, or leaving any such copy with the party, his wife or other free person above the age of sixteen years on the plantation: *Provided, however*, that the notice be given by the delivery of an attested copy as aforesaid shall be void, unless suit is brought within one year thereafter: *Provided*

that in no case shall the proprietor of the better title be obliged to pay to the occupying claimant for improvements, made after notice, more than what is equal to the rents and profits aforesaid.

SEC. 9. *And be it further enacted:* That notice to any occupying claimant shall bind all those claiming from, by or through such occupying claimant to the extent of such claim.

SEC. 10. *And be it further enacted:* That nothing in this act shall be construed so as to prevent any court from issuing a precept to stay waste, and ruling the party to give bond and security in such manner as such court may think right.

This act shall be in force from the passage thereof.

The foregoing is hereby declared to be a law of this Territory.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, this twenty-fourth day of January, in the year of our Lord eighteen hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

A true copy, attest,
WILLIAN ARUNDEL, Clerk.

A LAW *concerning the militia. Adopted from the militia law of South Carolina.*[1]

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That all officers shall reside within their respective commands, and on their removal therefrom their commission shall be vacated.

That all brigadiers shall have the right to appoint their respective *aids de camp*, who shall have the rank of captain, and that they shall also have the right to appoint their respective brigade inspectors.

That the regimental staff shall be appointed by the colonels, respectively, and be approved by the brigadiers, and that all officers to be nominated and appointed as aforesaid shall be commissioned by the Governor.

That all fines shall [be] inflicted on non-commissioned officers and privates by the judgment of a majority of the commissioned officers in the company in which the offenders are enrolled.

All other laws within the purview of this law are hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the seventeenth day of June, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

1 The last four are reprinted from the *Publications* of the Illinois State Hist. Lib., No. 2.

A LAW *concerning the militia. Adopted from the Kentucky Code.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] the Governor shall provide for raising companies of grenadiers, light infantry, cavalry, riflemen and artillery agreeable to the laws of the United States at his discretion; and when raised and officered shall be subject to the laws and rules of the said United States and of this Territory as other militia.

Be it further enacted by the authority aforesaid: That so much of any law or laws as requires that the brigadiers shall choose their brigade inspectors from the commissioned officers of the brigade, and so much of any law as requires that the colonels of regiments shall select their regimental staff from the commissioned officers of the regiment, shall be and the same is hereby repealed.

The foregoing is hereby declared to be a law of this Territory, and to take effect from the date thereof.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-fifth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

A LAW *altering the time of holding the general court at Cahokia, in the county of St. Clair.*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: [That] whereas, from the present appearances there is great reason to apprehend that the approaching fall will be uncommonly sickly, especially at the town of Cahokia, in the county of St. Clair, and that in consequence thereof, the judges of the general court, jurors, suitors and witnesses will, in many instances, be unable to attend the court at the next term, as now directed by law to be holden in said town:

Be it therefore enacted: That the general court shall hold its next session in the town of Cahokia on the the fourth Monday in the month of October next, and that all process issued since April last shall be considered as returnable to the said fourth Monday in October next.

This law shall take effect from and after the tenth day of August next.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart and Jesse B. Thomas, Judges, have hereunto signed our names, at Kaskaskia, the thirty-first day of July, in the year of our Lord one thousand eight hundred and eleven, and of the Independence of the United States the thirty-sixth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS.

The foregoing contains a true copy of all the laws enacted by the Governor and Judges and filed in the office of the Secretary from March first, eighteen hunderd and eleven, to the thirty-first of August following, inclusive.

Given under my hand, at Kaskaskia, the twenty-eighth day of January, eighteen hundred and twelve.

AN ACT *to repeal an act, entitled, "An act to encourage the killing of wolves."*

Be it enacted by the Governor and Judges of the Illinois Territory, and it is hereby enacted by the authority of the same: That an act passed by the Legislature of the Indiana Territory, bearing the date of the fourteenth day of September, in the year eighteen hundred and seven, entitled, "An act to encourage the killing of wolves," be and the same is hereby repealed.

This act to take effect and be in force from and after the first day of January next.

The foregoing is hereby declared to be a law of the Territory, and to take effect accordingly.

In testimony whereof, we, Ninian Edwards, Governor, and Alexander Stuart, Jesse B. Thomas and Stanley Griswold, Judges, have hereunto subscribed our names. at Kaskaskia, the ninth day of November, in the year of our Lord. eighteen hundred and eleven, and of the Independence of the United States the thirty-sixth.

NINIAN EDWARDS,
ALEXR. STUART,
J. B. THOMAS,
STANLEY GRISWOLD.

A true copy of all the laws passed from September first, eighteen nundred and eleven to the twenty-ninth of February, eighteen hundred and twelve.

NAT. POPE, *Secretary.*